



REQUEST FOR PROPOSAL

San Joaquin County Employees' Retirement Association
6 S. El Dorado Street, Suite 400
Stockton, California 95202
Phone: (209) 468-2163
www.sjcera.org

Request for Proposal No. 2020-01

TAX COUNSEL SERVICES

Proposals must be received no later than 4:00 p.m.
Friday, April 10, 2020

KEY DATES

Request for Proposals (RFP) issued:	March 13, 2020
Letter of Intent and Written Questions Due	March 20, 2020, 4 p.m. PDT
Responses to Questions Posted on Website	No later than March 27, 2020
Due date for submission of proposals:	April 10, 2020, 4p.m. PDT
Possible Interview(s) of Finalists:	April 20 – 27, 2020
Estimated Contract Execution:	June 5, 2020

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I. INVITATION

The San Joaquin County Employees' Retirement Association (SJCERA) is issuing this RFP to solicit proposals from qualified firms to provide, on an as-needed basis, tax counsel services.

II. GENERAL INFORMATION

A. Background Information

SJCERA is a tax qualified, contributory defined benefit pension plan established by the San Joaquin County Board of Supervisors effective June 28, 1946. SJCERA provides retirement, disability and survivors' benefits to eligible General and Safety members employed by the County of San Joaquin and nine other public employers:

- Lathrop-Manteca Rural Fire Protection District
- Mountain House Community Services District
- San Joaquin County Historical Society and Museum
- San Joaquin County Law Library
- San Joaquin County Mosquito and Vector Control District
- San Joaquin County Superior Court
- San Joaquin Local Agency Formation Commission
- Tracy Public Cemetery District
- Waterloo-Morada Rural Fire Protection District

SJCERA's nine-member Board of Retirement has exclusive control and fiduciary responsibility for administering the benefits and managing the investment of plan assets. The Board oversees the Chief Executive Officer and staff in the performance of their duties in accordance with the County Employees' Retirement Law (CERL), the Internal Revenue Code (IRC), the Public Employees' Pension Reform Act of 2013 (PEPRA) as adopted by the Board of Supervisors and Board of Retirement, and the bylaws, policies, and procedures adopted by the Board.

The nine-member Board of Retirement includes four trustees appointed by the San Joaquin County Board of Supervisors, the San Joaquin County Treasurer-Tax Collector, and four trustees elected by SJCERA members, one alternate retired member, and one currently vacant alternate seat, elected by the Safety members.

As of December 31, 2018, SJCERA's membership included 8,091 active and inactive members and 6,051 retired members. Net assets totaled approximately \$3.2 billion as of December 31, 2019.

B. Written Questions Related to the RFP

Written questions will be accepted only via e-mail at TaxRFP@sjcera.org. All questions must identify the RFP section and page number to which the question refers. Written questions to the above e-mail address will be accepted until 4:00 p.m. on Friday, March 20, 2020. Questions and responses thereto will be posted on SJCERA's website (www.sjcera.org) no later than August 30, 2019.

C. Notice of Intent

Each interested party must send a Letter of Intent to Propose to this RFP via e-mail to TaxRFP@sjcera.org on or before Friday, March 20, 2020. The Notice must include the title of the RFP to which you intend to respond, the single point of contact at your firm responsible for the RFP response and the telephone and e-mail information for this individual.

D. No Contact

No contact with SJCERA board members and SJCERA staff regarding the contents of this RFP will be allowed during the pendency of this RFP, with the exception of the submitted written questions.

E. No Reimbursement for RFP Expenses

SJCERA 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(s). All material submitted in response to this RFP will become the sole property of SJCERA. SJCERA expressly reserves the right to utilize any and all ideas submitted in the proposals received unless covered by legal patent or proprietary rights.

F. Interviews

Interviews may be conducted at SJCERA's discretion. Proposers selected for interview will be notified of the interview date(s) at least one week in advance.

G. Confidentiality

All responses to this RFP become the property of SJCERA and will be kept confidential until such time as a recommendation for award of a contract has been announced. Submittals are subject to public inspection and disclosure under the California Public Records Act. If a Proposer

believes that any portion of its submittal is exempt from public disclosure, such portion must be marked “Confidential.” SJCERA will use reasonable and legally permissible means to ensure that such confidential information is safeguarded to the extent that SJCERA, in its independent judgment, concludes that the information is in fact exempt from disclosure, but SJCERA will not be liable for inadvertent disclosure of such materials, data and information. If proposals marked “Confidential” in their entirety, SJCERA will not deny public disclosure of all or any portion of submittals so marked.

By submitting information with portions marked “Confidential”, the proposer represents it has good faith belief that such material is exempt from disclosure under the California Public Records Act and agrees to reimburse SJCERA for, and to indemnify, defend and hold harmless SJCERA, its officers, fiduciaries, employees and agents from and against: any and all claims, damages, losses, liabilities, suits, judgements, 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 SJCERA’s non-disclosure of any such designated portions of a proposal if disclosure is deemed required by law or court order.

III. SCOPE OF WORK

A. Introduction

Tax counsel will be expected to provide the following range of tax counsel services, including but not limited to:

- Advice on tax law compliance and related accounting and administration issues including, upon request, obtaining necessary opinions, private letter rulings, and other documents from the Internal Revenue Service, or other state, or federal regulatory, or governing bodies
- Specific, written recommendations and strategies to maintain the tax qualified status of the Plan, including recommendations for proposed additions and/or amendments to SJCERA policies and procedures to ensure compliance with qualification criteria of the Internal Revenue Code and constitutional law
- Capability and availability to perform legal services promptly and in a manner that permits SJCERA to meet established deadlines and to act expeditiously in member-related tax issues and payroll matters
- Representation of SJCERA before the IRS, if needed
- Advice and counsel regarding domestic and international investment-related tax exposure

- Such other tax law matters that may be referred by staff or general counsel
- Attendance at Board meetings when necessary

B. Term of Engagement

SJCERA anticipates contracting with the successful proposer for an initial term of five (5) years. The contract may be extended for up to five (5) additional years by mutual agreement of the parties by written amendment. SJCERA's decision to exercise contract extension(s) is subject to satisfactory negotiation of terms.

IV. MINIMUM QUALIFICATIONS

The Proposer should have at least five (5) years' experience in representing governmental pension plans. The assigned Lead Counsel shall be a member of the State Bar of California, admitted and licensed to practice law in all Federal and State Courts in the State of California, with at least seven (7) years' experience in providing advice to governmental pension plans.

V. PROPOSAL REQUIREMENTS

A. Proposal Requirement

Proposers must submit one (1) original and four (4) copies and one (1) USB flash drive of their proposal in a sealed package **no later than 4 p.m. PDT on Friday, April 10, 2020**. Proposals must be sent to:

Greg Frank
RFP Coordinator
San Joaquin County Employees' Retirement Association
6 S. El Dorado Street, Suite 400
Stockton, CA 95202

B. Proposal Form

Proposals must be printed double-sided, and prepared in a simple, economical manner, with the sections tabbed to match those in the RFP, and with all the pages numbered within in each section. The proposal shall be prepared succinctly, providing a straight forward, concise description of the Proposer's ability to meet the requirements of the RFP.

Proposal and billing rates shall be valid and binding for 180 days following the proposal due date and will become part of the contract that is negotiated with SJCERA.

Failure to complete any question or request for information, in whole or in part, or any deliberate attempt by the Proposer to mislead SJCERA, may disqualify the Proposer.

C. Proposal Content

A complete Proposal must include the following information:

Section 1: Cover Letter. A cover letter providing a statement affirming that the signatory is empowered to bind the respondent to an engagement agreement with SJCERA and represents and warrants that the information stated in the proposal is accurate and may be relied upon by SJCERA in considering and potentially accepting the proposal.

Section 2: Executive Summary. An executive summary that provides the Proposer's background, experience and other qualifications to provide tax counsel services.

Section 3: Description of Proposer. A description of the Proposer including:

- i. A brief history of the firm including year it was formed
- ii. Ownership structure
- iii. Office locations
- iv. Organizational chart
- v. Number of employees
- vi. Number of employees dedicated to tax counsel services
- vii. Annual revenue
- viii. Areas of practice including firm specialties, strengths and limitations

Section 4: Lead Counsel. Identity of the Lead Counsel to be assigned to SJCERA as well as any other attorneys intended to render legal services under the proposal. Include resumes, professional background, area(s) of specialization, and office location(s).

Section 5: Qualifications. Narrative of the qualifications of the attorney(s) proposed to work with SJCERA, including but not limited to:

- i. Legal training, years of practice, area(s) of specialization (include date of admittance to the California Bar)
- ii. Years of public and private sector tax law practice
- iii. Litigation and arbitration experience and demonstration of a satisfactory track record
- iv. Identify any professional affiliations

- v. Detail experience and expertise in tax matters, including but not limited to the following:
 - a. Tax compliance with the County Employees Retirement Law of 1937 (CERL), California Public Employees' Pension Reform Act of 2013 (PEPRA), Internal Revenue Code, and California tax law
 - b. Tax compliance related to public employment payroll issues

Section 6: References. Provide three (3) references for which the Lead Counsel has provided tax counsel services, with at least one (1) of the references being a public pension system. Please include for each reference the name of the organization, individual point of contact, their email and phone number, a summary of the work performed, and the length of time Lead Counsel provided this service.

Section 7: List of Engagements. A list of engagements where the Lead Counsel has acted as tax counsel to a governmental pension plan.

Section 8: Billing Rate. State the hourly billing rate for the attorneys listed in Section 4. SJCERA 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.

Please note that SJCERA expects not to pay for travel time unless substantive work takes place during the travel time.

In addition, Proposer may provide any alternative fee structure deemed appropriate.

Section 8: Conflicts of Interest. An explanation of all actual or potential conflicts of interest that the Proposer may face in the representation of SJCERA.

Section 9: Discipline or Suspension. State whether the firm, its officers, partners, principals, agents, or employees that are expected to perform services under this RFP, have been disciplined, admonished, warned, or had any license, registration, charter, certification, or any similar authorization to engage in the legal profession suspended or revoked for any reason.

Section 10: Termination. Has the Proposer been disqualified or terminated by any public agency. If so, please explain under what circumstances this disqualification or termination occurred.

Section 11: Litigation. Identify any past, pending or threatened litigation or administrative or state ethics board or similar body proceedings to which you, your firm or any of your partners are a party and which would either materially impair your ability to perform the services enumerated herein and for which this RFP is issued or, of decided in and adverse manner, materially adversely affect the financial condition of Proposer.

Section 12: Contract Template. A sample of the type of contract contemplated is attached as Attachment A. In submitting a proposal, the Proposer will be deemed to have agreed to each clause unless the proposal identifies an objection, sets forth the basis for the objection, and provides substitute language to make the clause acceptable to the Proposer.

Section 13: Miscellaneous. Any other information that the Proposer deems relevant to SJCERA's selection process.

VI. PROPOSAL SELECTION AND EVALUATION

A. Scoring and Evaluation Criteria

Proposers will be evaluated in the discretion of SJCERA based upon the following factors:

- Qualifications, reputation and experience of the firm and the attorney(s) to provide legal services
- Level of experience with California public retirement plans, specifically multiple-employer defined benefit plans
- Level of experience with the CERL
- Information provided by references and any current or former clients
- Ability to effectively communicate technical/legal issues
- Cost of legal services, including such factors as hourly rates, discounts, and any alternative fee arrangements
- Interviews, if conducted
- The organization, completeness, and quality of the proposal, including cohesiveness, conciseness, and clarity

The factors will be considered as a whole, without specific weighting. The balancing of the factors is within SJCERA's sole discretion. Factors other than those listed may be considered by SJCERA in making its selection. SJCERA reserves the right in its discretion to request additional information from any proposer, although such requests may not be made to all proposers.

B. Right to Reject Proposal

SJCERA reserves the right to reject any or all proposals and is not liable for any costs the Proposer incurs while preparing the proposal. All proposals will become part of the public file, without obligation to SJCERA. Upon the completion of the evaluations, SJCERA intends to negotiate a contract with the Proposer whose proposal is deemed to be most advantageous to SJCERA.

C. Presentations

Proposers may be selected to give an oral presentation. Such presentation shall provide an opportunity for Proposers to clarify their proposal to ensure there is a mutual thorough understanding. SJCERA staff may interview selected Proposers and ask additional questions related to the proposal and the scope of work prior to any oral presentation. Interviews and oral presentations are conducted at SJCERA's discretion. Proposers selected for an interview or oral presentation will be notified of the date at least one week in advance. Proposers invited to an interview or oral presentation will be responsible for making and paying for their own travel arrangements.

VII. CONTRACT REQUIREMENTS

A. Contract Award

The award of a contract is accomplished by executing a contract with a written agreement that incorporates the entire RFP. The successful Proposers must agree to provide SJCERA with audit access on request during the term of the contract and for seven (7) years thereafter.

SJCERA shall have the right, in the first 12 months, to terminate this agreement upon 30 days written notice to the Proposer. Thereafter, either party shall have the right to terminate the relationship with or without cause upon 30 days written notice to the other party.

If a satisfactory contract cannot be negotiated, SJCERA may, in its sole discretion, begin contract negotiations with one or more than one of the remaining Proposers. SJCERA may contract with more than one Proposer if SJCERA determines, in its sole judgment, that more than one Proposer is preferred to provide the specified services.

B. Contract Requirements

The Proposer must be covered by Workers' Compensation Insurance, which will extend to and include work in California. In addition, the Proposer must also submit documents addressing general liability insurance, errors and omissions, fiduciary liability, cyber liability, automobile liability, and an indication that there is no conflict of interest on the part of the Proposer's submission of a proposal for the services being solicited under this RFP. Refer to Attachment A for anticipated amounts of coverage. The Proposer shall demonstrate willingness and ability to provide Certificates of Insurance within ten (10) days of the Notice of Contract Award.

C. Contract Approval

SJCERA's selection of a successful Proposer shall not be binding until it has been approved by SJCERA.

D. Reservations

This RFP does not commit SJCERA to award a contract. SJCERA reserves the right, in sole discretion to negotiate with any or all firms considered or to cancel the RFP in whole or in part.

ATTACHMENT A SAMPLE CONTRACT FOLLOWS

ATTACHMENT A
SCOPE OF WORK/FEEES

Consultant is being retained as tax counsel by SJCERA in order to provide the following range of legal services:

- Advice on tax law compliance and related accounting and administration issues including, upon request, obtaining necessary opinions, private letter rulings, and other documents from the Internal Revenue Service, or other state, or federal regulatory, or governing bodies
- Specific, written recommendations and strategies to maintain the tax qualified status of the Plan, including recommendations for proposed additions and/or amendments to SJCERA policies and procedures to ensure compliance with qualification criteria of the Internal Revenue Code and constitutional law
- Capability and availability to perform legal services promptly and in a manner that permits SJCERA to meet established deadlines and to act expeditiously in member-related tax issues and payroll matters
- Representation of SJCERA before the IRS, if needed
- Advice and counsel regarding domestic and international investment-related tax exposure
- Such other tax law matters that may be referred by staff or general counsel
- Attendance at Board meetings when necessary

SJCERA shall pay Consultant for all services under this Agreement pursuant to the following hourly rates:

<u>PROVIDER</u>	<u>HOURLY RATE</u>
**	**

All time shall be billed in minimum increments of 1/10 of an hour.

SJCERA shall reimburse Consultant for all reasonable out-of-pocket costs and expenses which may be incurred by Consultant with respect to the services to be performed under this Agreement. All such costs and expenses shall be reimbursed at Consultant's actual cost. This includes, for example: costs of serving notices, pleadings, and other documents; fees and other charges assessed by courts and other public agencies in connection with filing and processing documents; court reporter and transcript fees; witness fees; delivery fees; expert fees; investigator fees; copy service fees; outside printing, copying, and binding fees; overnight delivery fees, etc. SJCERA shall not reimburse Consultant for the costs of the following services, which are considered overhead: secretarial, clerical, filing, in-house copying, standard mail, word processing, faxing, telephone service, specialized books, on-line/computerized research costs, or other office operating expenses that are typically considered overhead. Consultant shall not retain experts or incur unusual costs without the prior approval of the Chief Executive Officer.