



# San Francisco Local Agency Formation Commission

**REQUEST FOR PROPOSALS FOR  
LAFCo Legal Services  
Solicitation # LAF2018-01  
CONTACT: Bryan Goebel, [Bryan.Goebel@sfgov.org](mailto:Bryan.Goebel@sfgov.org)**

**Background**

The San Francisco Local Agency Formation Commission (LAFCo) is seeking proposals to provide legal services.

The San Francisco LAFCo seeks to contract with a consultant who will serve under contract to provide legal services under the general policy direction of the Commission. These services shall entail advising the Commission and Executive Officer on the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (which governs SF LAFCo), public records and open meeting laws, governmental ethics laws and other legal issues as requested.

The LAFCo seeks responses from qualified firms demonstrating successful experience providing legal services that can meet the LAFCo's requirements.

**Anticipated Contract Term**

The anticipated contract term will be four years, with the option to extend the contract for up to two additional years. Actual contract term may vary, depending upon service and project needs at the LAFCo's sole, absolute discretion. Proposers selected must be available to commence work on or before July 1, 2019.

**Anticipated Contract Budget**

The anticipated not-to-exceed contract budget is \$200,000. Actual contract budget may vary, depending upon service and project needs at the LAFCo's sole and absolute discretion.

*The requirements of S.F. Administrative Code 14B Local Business Enterprise (LBE) do not apply to this RFP or any resulting contract.*

**Questions and Communications**

Interested parties are directed NOT to contact any employees, agents, or officials of the LAFCo other than those specifically designated in this RFP and its Attachments. To ensure fair and equal access to information about this RFP, e-mail your questions to [Bryan.Goebel@sfgov.org](mailto:Bryan.Goebel@sfgov.org).

Questions must be in writing and received by the Deadline for RFP Questions. No questions will be accepted after this time with the exception of LAFCo vendor requirement questions.

A summary of the questions and answers pertaining to this solicitation will be posted on City's website <http://www.sfgov.org> under Business – Bids & RFP's >>Consultants and Professional Services at the following URL:  
<http://mission.sfgov.org/OCABidPublication/ReviewBids.aspx>

**Schedule\***

RFP Issued	August 17, 2018
Deadline for RFP Questions	September 21, 2018
Deadline for RFP Answers	September 28, 2018
Deadline for RFP Proposals	October 26, 2018
Notice of Intent to Award Contract Notification	November 30, 2018

*\*Dates are subject to change*

# 1. Introduction

## 1.1 General terms used in this Request for Proposals (RFP)

Terms and abbreviations used throughout this RFP include:

- **City** – The City and County of San Francisco.
- **Contractor** – The Proposer awarded a contract for services following this RFP.
- **Firm** – Any business entity including, but not limited to, companies, non-profit organizations, educational institutions, and individuals.
- **LAFCo** – San Francisco Local Agency Formation Commission.
- **Proposer** – Any entity submitting a response to this RFP.
- **Proposal** – A Proposer’s proposal submitted in response to this RFP.
- **SFPUC** – San Francisco Public Utilities Commission

## 1.2 Statement of Need and Intent

### What Does the LAFCo Seek?

The LAFCo seeks proposals from firms demonstrating successful experience in providing legal services on a range of topics, broadly divided into Service Areas, including:

1. Providing legal advice, as requested, on all aspects of the LAFCo’s work, including the LAFCo’s responsibilities outlined in the Cortese-Knox-Hertzberg Act.
2. Assisting the LAFCo in its review of electric utility issues, including monitoring the San Francisco Public Utilities Commission’s implementation of the CleanPowerSF program (<https://cleanpowersf-sfpuc-yem2.squarespace.com/>).
3. Providing legal assistance in contract negotiations and personnel matters.
4. Appearing regularly at Commission meetings and providing advice on open meetings laws and other legal issues.

### With Whom Will Consultants Work?

Consultants will work closely with the LAFCo Executive Officer, members of the LAFCo, and staff from City departments, potentially including the Board of Supervisors, City commissions, and consultants, as appropriate.

## 1.3 Background of the Local Agency Formation Commission

In 1963, the State Legislature passed the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (“Cortese-Knox-Hertzberg Act” or “Act”) requiring the creation of a new public agency in each county called a Local Agency Formation Commission, charged with directing and coordinating the orderly formation and development of local government agencies and services.

The LAFCo is an independent public agency separate and apart from the government of the City and County of San Francisco. The Commission may play a role coordinating logical and timely changes in local governmental boundaries and special districts in San Francisco, and conducts special studies to assess ways to reorganize, simplify and streamline governmental services in San Francisco. These special studies include, but are not limited to, inventorying and determining the maximum service capabilities of public agencies in San Francisco.

Currently, the LAFCo monitors CleanPowerSF, a community choice aggregation energy program implemented by the San Francisco Public Utilities Commission. The LAFCo advises the SFPUC and the Board of Supervisors on all aspects of CleanPowerSF's development, operation and management. This includes applications for grants, purchases of real property, the issuance of revenue bonds and the program's finances. It also provides, as needed, feedback on development agreements, data collection, media and public relations policies and policies and procedures on the overall governance of CleanPowerSF.

As part of its special studies authority, the LAFCo is also currently leading a labor study on emerging mobility services. The study will examine labor models used in emerging mobility services to understand the demographics of the contractor labor force employed by companies such as Uber, Lyft, Caviar and Postmates. It will investigate how many contractors work for this sector, in which cities they reside, how many contractors work for multiple emerging mobility services, and what their commute patterns are.

The study will work to understand whether or how emerging mobility contractors access medical, dental and other benefits, and look at how other local and state governments have stepped in to help provide a security blanket for these workers. The results will inform state and local policy related to contractor benefits requirements.

#### **1.4 Organization of the Local Agency Formation Commission**

The LAFCo is comprised of five Commissioners. Four Commissioners are appointed by the San Francisco Board of Supervisors from among its members, two of whom are appointed as County representatives and two of whom are appointed as the LAFCo representatives. An additional Commissioner is appointed by the other four Commissioners as a Public Member-at Large. Alternate members may also be appointed.

The LAFCo generally meets once a month.

## **2. Scope of Work**

This scope of work is a general guide to the work the LAFCo expects to be performed, and is not a complete listing of all services that may be required or desired.

Possible Contract Deliverables include, but are not limited to:

- Advising the LAFCo and its Executive Officer on the Cortese-Knox-Hertzberg Act of 2000, Ralph M. Brown Act, California Public Records Act, and applicable conflicts-of-interest and ethics laws.
- Providing legal advice, as requested, on all aspects of the LAFCo's work, including special studies.

- Assisting the LAFCo in its review of electric utility issues, including monitoring the San Francisco Public Utilities Commission and CleanPowerSF.
- Providing legal assistance in contract negotiations and personnel matters.
- Appearing regularly at Commission meetings and occasionally at other meetings,.

### **3. LAFCo-Proposer Communications**

*There will not be a Pre-Response Conference for this RFP. Proposers are specifically directed NOT to contact any employees or officials of the LAFCo other than those specifically designated in this RFP and its Attachments. Unauthorized contact may be cause for rejection of proposals at the LAFCo's sole and absolute discretion.*

#### **3.1 Deadline for RFP Questions**

Please e-mail any questions to Bryan Goebel, LAFCo Executive Officer, at [bryan.goebel@sfgov.org](mailto:bryan.goebel@sfgov.org). No oral questions will be accepted. Questions, in accordance with the schedule, must be in writing and received before the **Deadline for RFP Questions**. No questions will be accepted after this time with the exception of those concerning LAFCo vendor compliance. All inquiries should include the number and title of the RFP. Substantive replies will be memorialized in written addenda to be made part of this RFP. This RFP will only be governed by information provided through written addenda.

#### **3.2 Summary of Information Requested and Presented**

A summary of all addenda, questions and answers pertaining to this RFP will be posted on the LAFCo website, <https://sfgov.org/lafco>, and City's website <http://www.sfgov.org> - under Business – Bids & RFP's >>Consultants and Professional Services at the following URL: <http://mission.sfgov.org/OCABidPublication/ReviewBids.aspx> ("Website"). It is the Proposers' responsibility to check this Website for any updates. The LAFCo recommends that Proposers check the Website for updates on a daily basis at a minimum.

#### **3.3 LAFCo Communication Following Receipt of Proposals**

The LAFCo may contact the Proposers for clarification or correction of minor errors or deficiencies in their Proposals prior to deeming a Proposal as non-responsive. Clarifications are limited exchanges between the LAFCo and a Proposer for the purpose of clarifying certain aspects of the Proposals, and do not give a Proposer the opportunity to revise or modify its Proposal. Minor errors or deficiencies are defined as those that do not materially impact the LAFCo's evaluation of the Proposal; for example, failing to label the "original" Proposal as an "original." For information regarding the LAFCo's Evaluation Process, see RFP Section 5 - Evaluation Criteria.

## 4. Proposal Submission Requirements

### 4.1 Time and Place for Submission of Proposals

Proposals and all related materials must be received by **Deadline for RFP Proposals**. Proposals must be delivered to:

Bryan Goebel  
LAFCo Executive Officer  
San Francisco Local Agency Formation Commission  
1 Dr. Carlton B. Goodlett Place, Room 409  
San Francisco, CA 94102

Postmarks will not be considered in judging the timeliness of submissions. Proposals submitted by e-mail will not be accepted. **Late submissions will not be considered**, including those submitted late due to mail or delivery service failure. Note that Proposers hand-delivering proposals to City Hall may be required to open and make packages accessible for examination by security staff.

### 4.2 Proposal Package

The following items must be included in your response and packaged in a box or envelope clearly marked: **LAFCo Legal Services, RFP #LAF2018-01**.

Complete, but concise responses, are recommended for ease of review by the Evaluation Team. Proposals should provide a straightforward, concise description of the Proposer's capabilities to satisfy the requirements of the RFP. All parts, pages, figures, and tables should be numbered and clearly labeled.

<b>Response Item Checklist</b>
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**Four (4) printed Proposals with 1 original signature and three copies.** The pages should be bound by a method in which the sheets may be easily separated (e.g. 3-hole binder, binder clip, comb binding, velo binding, etc.).

**RFP Attachment I – Acknowledgement of RFP Terms and Conditions**

**RFP Attachment II – LAFCo's Administrative Requirements**

**RFP Attachment III – LAFCo's Agreement Terms and Conditions**

**RFP Attachment IV – Proposal Template**

Each Attachment must include all documents submitted for that Attachment in one, separate, complete file. Each of these separate files must be titled with Proposer's name and Attachment number, in specific order. Each file should include signatures, where applicable.

Proposers are advised to review RFP Attachments I through III before beginning work on Proposal Template in RFP Attachment IV to ensure that the LAFCo's requirements can be met.

**One flash drive OR CD-ROM containing entire contents of response, including all RFP Attachments.** All electronic files on the flash drive or CD-ROM must be submitted in unprotected PDF or Word format.

Electronic files for each Attachment must include all documents submitted for that Attachment in one, separate, complete, electronic file. Each of these separate electronic files must be titled with Proposer's name and Attachment number, in specific order. Electronic files should include signatures, where applicable.

### **4.3 Content**

Firms interested in responding to this RFP must submit the information required in Section 5, in the order specified in Attachment IV: Proposal Template. Even if using an alternative format for your response, the information in Attachment IV must be included in the order specified so it can be scored appropriately.

Proposals received under this RFP that fail to address each of the requested items in sufficient and complete detail to substantiate that the Proposer can meet the LAFCo's minimum qualifications, will be deemed non-responsive and will not be considered for evaluation. Note that Proposals stating, "to be provided upon request" or "to be determined" or the like, or that do not otherwise provide the information requested (left blank) are not acceptable and may be deemed non-responsive.

### **4.4 Redact Confidential or Proprietary Information**

In this contracting process, the LAFCo intends to follow the City's public disclosure rules in San Francisco Administrative Code section 67.24. For that reason, all documents under this solicitation process are subject to public disclosure.

**4.4.1** Proposals to RFPs, contracts, and all other records of communications between the LAFCo and Proposers will be open to inspection immediately after a contract has been awarded. Nothing in this Administrative Code provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit *until and unless that person or organization is awarded the contract.*

**4.4.2** Proposers may redact any confidential or proprietary information, as appropriate, prior to submitting a response to this RFP.

**4.4.3** Proposers should clearly indicate net worth or other proprietary financial data that the LAFCo should redact should the RFP response be publicly disclosed, with the understanding that this information cannot be redacted or withheld should a contract be awarded to the Proposer.

## **5. Evaluation Criteria**

This section describes the guidelines used for analyzing and evaluating the proposals. It is the LAFCo's intent to select Proposers for contract negotiations that will provide the best overall service package to the LAFCo, inclusive of fee considerations. Proposer(s) selected for contract negotiations are not guaranteed a contract. This RFP does not in any way limit the LAFCo's right to solicit contracts for similar or identical services if, in the LAFCo's sole and absolute discretion, it determines proposals are inadequate to satisfy its needs. There are two phases to the evaluation process. The LAFCo will first perform an Initial Screening as described in Section 5.1. Responses that pass the Initial Screening process (5.1) including Minimum Qualifications (5.2) will proceed to the Evaluation of Firms described in Section 5.3. The LAFCo reserves the right to accept a Proposal other than the lowest price Proposal and reject all Proposals that are not responsive to this RFP.

LAFCo representatives will serve as the Evaluation Team responsible for evaluating Proposers. Specifically, the team will be responsible for the evaluation and rating of the responses for prequalification, and for interviews, if desired by the LAFCo.

### **5.1 Initial Screening**

The LAFCo will review each proposal for initial determination on responsiveness and acceptability in an Initial Screening process. Elements reviewed during the Initial Screening include, without limitation: compliance with submission requirements; compliance with Minimum Qualification requirements (Section 5.2), compliance with format requirements, response completeness, and verifiable references.

Proposals are not scored during the Initial Screening process. Initial Screening is a pass/fail determination as to whether a response meets the threshold requirements described above. By **Deadline for RFP Responses**, any response that does not demonstrate that the Proposer meets requirements in Section 5.1 will not be eligible for consideration in the Evaluation of

Firms described below in Section 5.3. As described in section 3.3, the LAFCo reserves the right to request clarification from the Proposer prior to rejecting a response for failure to meet the Initial Screening requirements. Clarifications are limited exchanges between the LAFCo and a Proposer for the purpose of clarifying certain aspects of the Proposal, and will not give a Proposer the opportunity to revise or modify its response.

## 5.2 Minimum Qualifications

Any response that does not demonstrate that the Proposer meets these minimum qualifications by the response deadline will be considered non-responsive and will not be evaluated or eligible for award of a contract. Prior work may be used to apply for more than one service area described in section 1.2. Use RFP Attachment IV to indicate for each Project Description the relevant Service Area(s).

### A) EXPERIENCE:

- a. Has submitted two Prior Project Descriptions as part of the RFP Attachment IV response to be considered for prequalification, which meet all of the following criteria:
  1. The services/experiences described in **each** of the Prior Project Descriptions for the service area must be comparable to the services the LAFCo is requesting, described in RFP Section 2, Scope of Work.
  2. The services described in **at least one** of the Prior Project Descriptions for the service area must have been provided to public sector municipalities or similar government agency clients.
  3. **Both** Prior Project Descriptions for the service area must demonstrate successful completion within five years from the issuance date of this RFP (successful completion means project deliverables have been completed as required).

### B) STAFFING:

- a. The lead staff proposed to be assigned to the LAFCo's project(s) must individually have had a similar lead role in **both** of the Prior Project Descriptions submitted for each service area.

## 5.3 Response Evaluation Criteria for Prequalification (100 points)

### Evaluation Team

LAFCo representatives will serve as the Evaluation Team responsible for evaluating Proposers. Specifically, the team will be responsible for the evaluation and rating of the responses for prequalification, for conducting reference checks, and for interviews, if desired by the LAFCo.

### **5.3.1 Firm Qualifications – 20 points**

- 1) Proposer's firm history and structure, including total staff size and composition.
- 2) Proposer's experience providing legal services to municipalities or other government agencies.
- 3) Proposer's capacity and resources to provide the services under this RFP.
- 4) Client relationships terminated for reasons other than convenience, if any.

### **5.3.2 Staff Qualifications – 30 points**

- 1) Clarity and appropriateness of proposed staffing structure.
- 2) Roles and responsibilities, qualifications, and educational backgrounds of lead staff members proposed to perform services for the LAFCo are appropriately demonstrated for each Service Area indicated in response.

### **5.3.3 Approach and Cost – 40 points**

- 1) Expectations of client involvement or level of effort are appropriate; the proposed approach and questions demonstrate experience with providing services to comparable clients.
- 2) Sufficient expertise and methodology to create competitive differences that will be beneficial to the LAFCo is demonstrated.
- 3) Cost response is sufficiently detailed, reasonable and appropriate.

### **5.3.4 Completeness of Response Submission – 10 points**

- 1) Response conforms with RFP requirements and concisely but comprehensively addresses RFP requirements.
- 2) Response is professionally presented and contains organized content and format.

## **5.4 Reference Checks**

Reference checks, including, but not limited to, prior clients as indicated in Attachment IV Prior Project Description(s), may be used to determine: (i) the applicability of Proposer's experience to the services the LAFCo is requesting, (ii) the quality of services and staffing provided to prior clients, (iii) adherence to schedules/budgets, (iv) Proposer's problem-solving, project management and communication abilities, (v) performance on deliverables and outcomes, and (vi) effectiveness in meeting or exceeding project objectives. If reference checks establish that information included in a Prior Project Description or elsewhere in the response is untruthful, then the LAFCo may reject the Proposal.

### **Release and Waiver Agreement**

To effectuate the candid completion of the reference check above, Proposer is required to sign the RFP Attachment I, Section 14, Release of Liability.

## **5.5 Oral Interviews**

If the LAFCo chooses to conduct interviews, then following the Proposal Evaluation process, the LAFCo may invite Proposers to oral interviews with the Evaluation Team. Oral interviews will consist of standard questions asked of selected Proposers, and specific follow-up

questions regarding individual responses. If interviews are conducted, they will be worth 100 points based on a set of criteria established following review of written responses. The 100 points possible awarded for interviews will be added to the 100 possible points awarded during the Proposal Evaluation process for a total of 200 points. The lead staff members that will be assigned to the engagement should be present for the interview. The LAFCo has sole and absolute discretion over whether interviews will be conducted or not to select Proposers for prequalification.

## **5.6 Other Terms and Conditions**

The selection of any Proposer for contract negotiations shall not imply acceptance by the LAFCo of all terms of the response, which may be subject to further negotiation and approvals before the LAFCo may be legally bound thereby.

The LAFCo will select the most qualified and responsive Proposer with whom LAFCo staff will commence contract negotiations. If a satisfactory contract cannot be negotiated in a reasonable time with the selected Proposer, then the LAFCo, in its sole discretion, may terminate negotiations and begin contract negotiations with the next highest scoring Proposer. The LAFCo, in its sole discretion, has the right to approve or disapprove any staff person assigned to its projects by the Contractor before and throughout the contract term. The LAFCo reserves the right at any time to approve, disapprove or modify proposed project plans, timelines and deliverables, provided that all modifications are within the scope of services sought by this RFP.

## **6. Protest Procedures**

### **6.1 Protest of RFP Terms**

Failure of a Proposer to comply with the protest procedures set forth in this section will render a protest inadequate and non-responsive, and will result in rejection of the protest.

Should a prospective Proposer object on any ground to any provision or legal requirement set forth in the RFP (including all Appendices and all Addenda), including but not limited to protests based on allegations that: (i) the RFP is unlawful in whole or in part, (ii) one or more of the requirements of the RFP is onerous, unfair, or unclear; (iii) the structure of the RFP does not provide a correct or optimal process for the solicitation of the Services; (iv) the RFP contains one or more ambiguity, conflict, discrepancy or other error; or (v) the RFP unnecessarily precludes alternative solutions to the Services or project at issue, the prospective Proposer must provide timely written notice of protest as set forth below.

By 5:00 p.m. P.S.T on the third working day after the issuance of the RFP, any Proposer may submit a written notice of protest via e-mail to [Bryan.Goebel@sfgov.org](mailto:Bryan.Goebel@sfgov.org). Protests or notices of protests delivered orally (e.g., by telephone) will not be considered.

The protest must state the basis for the protest, refer to the specific requirement or portion of the RFP at issue, and describe the modification to the RFP sought by the prospective Proposer. The protest must also include the name, address, telephone number, and email address of the person representing the prospective Proposer.

The LAFCo may extend the response submittal deadline to allow sufficient time to review and investigate the protest, and issue Addenda to incorporate any necessary changes to the RFP.

## **6.2 Protest of Non-Responsiveness Determination**

By 5:00 p.m. PST on the fifth working day after the LAFCo's issuance of a notice of non-responsiveness, any Proposer that has submitted a response and believes that the LAFCo has incorrectly determined that its response is non-responsive, may submit a written notice of protest by e-mail (fax is not acceptable). Such notice of protest must be received by the LAFCo on or before 5 p.m. PST of the fifth working day following the LAFCo's issuance of the notice of non-responsiveness.

The notice of protest must include a written statement specifying in detail each and every reason asserted for the protest. The protest must be signed by an individual authorized to represent the Proposer, and must cite the law, rule, local ordinance, procedure or RFP provision on which the protest is based. In addition, the protestor must specify facts and evidence sufficient for the LAFCo to determine the validity of the protest.

## **6.3 Delivery of Protests**

All protests must be received by the specified dates and time deadlines specified in Section 6.1 and 6.2. Protests or notice of protests made orally (e.g., by telephone) or by fax will not be considered.

Protests must be delivered via:

E-mail: [Bryan.Goebel@sfgov.org](mailto:Bryan.Goebel@sfgov.org)

## **6.4 Protest Review**

If a Proposer submits a complete and timely protest, the LAFCo will review the notice of protest soon after receipt of the protest to determine its validity, including, but not limited to: (1) receipt by due date; (2) inclusion of a written statement specifying in detail each and every one of the grounds asserted for the protest; (3) signed by an individual authorized to represent the Proposer; (4) citation of the law, rule, local ordinance, procedure or RFP provision on which the protest is based; and (5) specification of facts and evidence sufficient for the LAFCo to determine the validity of the protest.

A Proposer may not rely on a Protest submitted by another Proposer, but must timely pursue its own Protest.

The LAFCo, at its discretion, may make a determination regarding a protest without requesting further documents or information from the Proposer who submitted the protest. Accordingly, the initial protest must include all grounds of protest and all supporting documentation or evidence reasonably available to the prospective Proposer at the time the protest is submitted. If the Proposer later raises new grounds or evidence that were not included in the initial protest, but which could have been raised at that time, then the LAFCo may not consider such new grounds or new evidence.

If the LAFCo determines that the notice of protest is valid, the LAFCo will review facts and evidence to determine the outcome of the protest. The review will be an informal process

conducted by the LAFCo or its designee and will be based upon the information submitted by the Proposer in its protest letter. The LAFCo may seek input from the San Francisco City Attorney's Office, and/or other City departments as needed or appropriate. The LAFCo will notify the Proposer in writing of its decision at the conclusion of the review. The LAFCo will make the final determination regarding the outcome of the protest. The decision of the LAFCo regarding a protest is final.

## **7. Vendor Compliance**

Proposer Team must fulfill the City's administrative requirements for doing business with the City and become a compliant vendor prior to contract award. Fulfillment is defined as completion, submission and approval by applicable City agencies of the forms and requirements referenced in RFP Attachment II.