



# **Request for Proposals**

**March 12, 2018**

## **Legal Services**

**To be submitted to:**

**Alameda Corridor Transportation Authority  
3760 Kilroy Airport Way, Suite 200  
Long Beach, CA 90806**

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***Legal Services Request for Proposals***

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TO: PROSPECTIVE COUNSEL

FROM: ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY

DATE: March 12, 2018

RE: REQUEST FOR PROPOSALS (RFP) FOR OUTSIDE LEGAL COUNSEL TO PROVIDE LEGAL SERVICES AND REPRESENTATION OF THE ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY

The Alameda Corridor Transportation Authority (“ACTA”) invites the submittal of proposals to provide certain legal services to ACTA as described herein. Both small and large firms with competitive rates are encouraged to apply. All materials shall become a part of the proposal and may be incorporated in a subsequent contract between ACTA and any selected law firms.

The schedule for this RFP will be as follows:

Request for Proposals Published	March 12, 2018
Questions Due	March 26, 2018
Answers Posted	April 3, 2018
Proposals Due	3:00 p.m., April 17, 2018
Tentative Interviews (if necessary)	May 7-9, 2018

If your firm cannot agree to the requirements exactly as set forth in this RFP, please do not submit a proposal.

Please submit your written proposal consisting of **1 signed original and 5 copies**, no later than:

**3:00 p.m. on April 17, 2018**

Proposals shall be submitted in a sealed package, clearly marked with:

**Proposal Response re: RFP for Legal Services and Representation of the Alameda Corridor Transportation Authority**

Proposals shall be addressed and sent via U.S. mail, courier service or hand delivery to:

Alameda Corridor Transportation Authority  
Attn: James P. Preusch, CFO  
3760 Kilroy Airport Way, Suite 200  
Long Beach, CA 90806

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Proposals shall not be faxed or emailed to ACTA and any such submissions shall be rejected by ACTA as non-responsive.

All proposals will be date stamped as ACTA receives them. The proposal opening will not be open to the public.

Proposers solely are responsible for the timeliness of their submittals. As such, proposers are cautioned to budget adequate time to ensure that their proposals are delivered at the location designated at or before the deadline set forth above. Proposers are cautioned that matters including, but not limited to, traffic congestion, security measures and/or events in or around ACTA's office, may lengthen the amount of time necessary to deliver the proposal, whether the proposal is submitted in person or by mail.

By submitting a proposal, proposers certify that such proposal constitutes their full and complete written response to the RFP and evidences their acknowledgement that additional written material outside of such proposal shall not be considered by ACTA in connection with this RFP, unless ACTA provides a written request that they submit additional written materials. Absent such written request, proposers are instructed to not submit to ACTA written or other materials outside of the proposal, either in a subsequent interview or otherwise.

Any questions regarding this RFP shall be emailed to [legalrfp@acta.org](mailto:legalrfp@acta.org) no later than 3:00 p.m., March 26, 2018. Inquiries received after said deadline will not be considered.

Answers to all questions submitted by the deadline will be posted on ACTA's website by close of business on April 3, 2018. It is the responsibility of any proposers to review ACTA's website for any RFP addenda or answers to questions prior to submitting a proposal in order to ensure their proposal is complete and responsive.

### I. THE CLIENT

#### A. The Alameda Corridor Transportation Authority

The Alameda Corridor Project was developed to address the substantial increases in intermodal container volumes as forecasted through the year 2030. The corridor itself is an approximately twenty-mile long railroad freight way running primarily parallel to Alameda Street from downtown Los Angeles to the Los Angeles/Long Beach port complex. ACTA completed the \$2.4 billion project on time and within budget in April, 2002. The Alameda Corridor Project, incorporated in both the Port of Los Angeles and the Port of Long Beach master plans, successfully consolidated the port-related traffic of the Union Pacific Railroad and the Burlington Northern and Santa Fe Railroad. Prior to the completion of the Alameda Corridor, these railroads used separate track configurations which crossed nearly 200 streets and highways between downtown Los Angeles and the ports.

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The Alameda Corridor Transportation Authority is a California Government Code joint powers authority created in 1989 by the Cities of Los Angeles and Long Beach, acting by and through their respective Board of Harbor Commissioners. As a joint powers agency, ACTA is a separate and distinct legal entity from the two cities. ACTA's Amended and Restated Joint Exercise of Powers Agreement specifies that ACTA undertake a program of street, railroad and other related improvements to facilitate the movement of both international and domestic cargo through the ports. ACTA's seven member Governing Board consists of the executive directors from each port, a member from each port's Board of Harbor Commissioners, one councilperson each from the City of Los Angeles and the City of Long Beach, and a representative appointed by the Los Angeles County Metropolitan Transportation Authority.

The Port of Los Angeles and the Port of Long Beach together comprise the single largest seaport complex in the United States, and the tenth largest in the world. The two ports handled approximately 15 million TEUs (twenty-foot equivalent units) in 2017. Port activity includes multi-billion dollar capital development and expansion programs, slated to extend over the next 20 years.

### **B. ACTA Co-General Counsel**

Pursuant to the terms of its Joint Exercise of Powers Agreement, ACTA is represented by two attorneys, serving as Co-General Counsel, assigned from the Long Beach Office of the City Attorney and the Los Angeles Office of the City Attorney. ACTA's Co-General Counsel provides general legal counsel to the ACTA Governing Board and ACTA staff. The attorneys draft and approve ACTA's permits and contracts, review real property transactions, assist as in-house counsel on bond financing transactions, and provide day-to-day legal advice on ACTA matters. The Co-General Counsel also represent ACTA in litigation, which may involve contract and construction disputes, real property issues and environmental matters. All outside counsel law firms hired pursuant to this RFP will report to and work directly with ACTA's Co-General Counsel.

## **II. THE PROPOSED SERVICES**

ACTA is seeking experienced law firms possessing substantial background and experience in advising government agency clients with respect to the following practice areas:

- 1) Public Financing;
- 2) Business Transactional Matters;
- 3) General Litigation;
- 4) Real Property Transactions (including condemnation);
- 5) Construction Contracts and Claims; and
- 6) Environmental Regulations and Entitlements (including CEQA and NEPA).

This RFP process is designed to select the most suitable firms to examine and

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recommend measures and strategies which might be employed with respect to the various legal issues facing ACTA. The firm or firms selected will be provided with substantial supplemental information concerning ACTA and the Alameda Corridor Project.

As requested below, proposals are required to set forth the firm's and each attorney's background and qualifications that make the firm suitable for this particular engagement. The firm's proposal should identify with specificity the area or areas of expertise listed above for which the firm is seeking to represent ACTA.

The initial duration of any contract awarded as a result of this RFP is expected to be for a period of five (5) years. No firm is guaranteed any particular volume of work or fixed amount of compensation during the contract term.

### III. CONTENT OF PROPOSAL

Proposals shall be typed using 1.5 line spacing, 12-point font limit, and submitted on 8-1/2 x 11-inch paper. Tables, charts and graphics may be single spaced with smaller font, but must be easy to read. Proposals shall not include any promotional materials and shall be limited only to the information requested in this RFP. Proposals should not exceed 10 single-sided pages in length, excluding the Cover Letter and team member resumes and be submitted in a simple bound manner. Proposals shall set forth the firm's background and the qualifications which make the firm suitable for this particular engagement agreement. The firm's proposal should identify with specificity the area of expertise addressed in this RFP for which the firm is seeking to represent ACTA. All proposals must, at a minimum, contain the following required content.

#### A. Cover Letter

Each proposal must be accompanied by a cover letter that contains the following information:

- 1) Subject line should state: **Proposal Response Re: RFP For Legal Services and Representation of the Alameda Corridor Transportation Authority**
- 2) Name, address, telephone number, and legal business status (individual, partnership, corporation, etc.) of the proposing law firm.
- 3) Name, title, address and telephone number of the person or persons authorized to represent the proposer in order to enter into negotiations with ACTA with respect to the RFP and any subsequent awarded contract. The cover letter shall also indicate any limitation of authority for any person named.

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- 4) Specifically state the practice area(s) provided in Section II above for which your firm is proposing to provide legal representation to ACTA.
- 5) If the proposing firm is a partnership, the cover letter must be signed in the name of the partnership by a general partner. If the proposing firm is a corporation, the cover letter must be signed on behalf of the corporation by two authorized officers (a chairman of the board, president or vice-president, and a secretary, treasurer or chief financial officer) or an officer authorized by the board of directors to execute such documents on behalf of the corporation.
- 6) The individual signing on behalf of the firm as set forth above shall sign under the following declaration:

“This proposal is genuine, and not a sham or collusive, nor made in the interest or on behalf of any person not herein named; the proposer has not directly or indirectly induced or solicited any other proposer to put in a sham bid, or any other person, firm or corporation to refrain from submitting a proposal, and the proposer has not in any manner sought by collusion to secure for themselves an advantage over any other proposer.”

### **B. Demonstrated Qualifications For The Work**

Proposals should set forth the complete array of services which the firm is capable of providing with respect to any of the above-referenced practice areas for which the firm seeks to represent ACTA. Include any relevant agency administrative practice or litigation and appeal experience which the firm may possess.

Proposers are requested to address the following, at minimum:

- 1) Are you and/or your firm presently involved in any litigation involving the City of Los Angeles, the City of Long Beach or the County of Los Angeles? If so, provide the jurisdiction, case name and number and a brief description of the matter.
- 2) Provide information concerning the general qualifications and experience of the law firm for the practice areas for which the firm seeks to represent ACTA. Identify the firm’s and the designated attorneys’ current and recent past experience, and the nature of the legal services rendered.
- 3) Identify the attorney(s) that would be assigned to handle matters under this RFP, provide their resumes, and propose compensation

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for the services provided (hourly rate). For each attorney identified: (a) provide their years of practice in the legal area proposed; (b) state any applicable law specialty applicable to the practice area; (c) for any proposed litigators, provide citations to any relevant reported cases on which he or she acted as counsel of record; and (d) summarize any relevant administrative practice experience or trial and appeal experience.

- 4) What is the total number of attorneys your firm employs? All proposers shall have sufficient qualified attorneys, paralegals, and other personnel resources to provide the legal services required.
- 5) Provide a general breakdown of the various hourly billing rates charged by attorneys and paralegals in your firm. If differing rates are charged to municipal entities or you are willing to provide a billing rate discount under this RFP, please so indicate, and provide a breakdown of those rates. If hourly billing rates are to be increased over the term of the contract, provide the proposed percentage increase or actual increased billing rate.
- 6) Specifically state whether such hourly billing rates include all administrative and overhead costs, such as word processing and telephone charges. Please indicate what charges are not included in the identified hourly billing rates, including reimbursable costs.
- 7) In connection with this RFP, ACTA desires to contract with counsel who will be responsive and available on a consistent basis throughout the term of the contract. What safeguards can you and/or your firm offer to ensure that the team designated to handle matters arising out of this RFP is affected to the lowest extent possible by turnover and other impacts to continuity?
- 8) Please set forth the identities of the clients which your firm has represented in the types of practice areas specified in this RFP for which your firm seeks to represent ACTA, if this information is not confidential.
- 9) What is it about your firm, as compared with other law firms practicing in your proposed area of expertise, that should make it the leading candidate for selection under this RFP?
- 10) Has your firm had past contracts with ACTA, the City of Long Beach, the City of Los Angeles, or the County of Los Angeles? If yes, please provide a description of services including contract number(s) and date(s).

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- 11) Include a statement in the proposal as to whether or not your firm carries "errors and omissions" or other malpractice insurance. If such insurance is carried, the policy limits of such policies shall be provided.
- 12) Provide at least two (2) references, including names and contact information, where representation was provided in the proposed practice areas for which your firm seeks to represent ACTA.

### C. Conflicts of Interest

Provide information on whether your firm represents any interests which may constitute a conflict of interest in the representation of ACTA, including conflicts of interest with the City of Los Angeles, the City of Long Beach or the County of Los Angeles. If a question exists regarding any potential conflict of interest pursuant to Rule 3-310 of the California Rules of Professional Conflict, counsel shall scrupulously observe the requirements of Section 6068(e) of the California Business and Professions Code.

## IV. EVALUATION AND SELECTION PROCESS

This proposal process is designed to select the most suitable firm(s) to assist ACTA and its Co-General Counsel. The selection process consists of evaluation of the submissions of written proposals setting forth the proposers' qualifications and other information responsive to this RFP. All proposals meeting the requirements of this RFP shall be reviewed and rated by a selection panel. The right to reject any and all proposals shall, in every case, be reserved, as shall the right to waive any informality when to do so would be to the advantage of the ACTA. The process may also consist of a series of interviews with some or all of the proposers. Firms should be mindful, however, that it is possible this RFP process may conclude without the selection of any proposer. Selection of any firm or firms may be based upon, but is not exclusively limited to, the following general criteria:

- The quality and responsiveness of the proposer's proposal.
- Demonstrated specific expertise, experience and qualifications of the firm(s) and attorneys identified in the proposal to handle the proposed practice areas.
- The quality of answers to the questions set forth in Section 3(B), above, and to the questions asked during any interview.
- The proposed approach and strategy, including staffing, for any proposed practice area.
- General experience representing and advising public entities in the proposed practice areas, including litigation where applicable.

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- Ability to provide the proposed legal services on a continuous basis.
- Rates, fees and cost effectiveness of the proposed services to be provided.

After the selection panel's evaluation of written submittals and any oral interviews, a recommendation, if any, will be made by ACTA's Co-General Counsel to ACTA's Governing Board. ACTA's Governing Board shall make all decisions, and may accept, conditionally accept or reject any recommendations.

### V. ACTA RESERVATIONS

- a) ACTA reserves the right to verify the information in the proposal. If a firm knowingly and willfully submits false performance or other data, ACTA reserves the right to reject that proposal. If a contract was awarded as a result of false statements or other data submitted in the proposal, ACTA reserves the right to terminate that contract.
- b) Submission of a proposal shall constitute acknowledgment and acceptance of the terms and conditions set forth herein. Proposals and the offers contained therein shall remain valid for a period of one hundred and twenty (120) days from the date set for receipt of proposals. Firms awarded a contract pursuant to this RFP will be required to enter into a written contract with ACTA approved as to form by its Co-General Counsel. See Exhibit A. This RFP and the proposal, or any parts thereof, may be incorporated into and made a part of the final contract. ACTA reserves the right to further negotiate the terms and conditions of the contract. The final contract offer of ACTA may contain additional terms or terms different from those set forth herein.
- c) Late proposals will not be considered. ACTA, in its sole discretion, reserves the right to determine the timeliness of all proposals submitted.
- d) ACTA reserves the right to waive any informality in the process when to do so is in the best interest of ACTA.
- e) ACTA reserves the right to withdraw this RFP at any time without prior notice and the right to reject any and all proposals. ACTA makes no representation that any contract will be awarded to any proposer. ACTA reserves the right to extend the deadline for submission. Firms will have the right to revise their proposal in the event the deadline is extended.

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- f) A proposer may withdraw its proposal prior to the specified due date and time. A written request to withdraw, signed by an authorized representative of the proposer, must be submitted to ACTA at the address specified herein for submittal of proposal. After withdrawing a previously submitted proposal, the proposer may submit another proposal at any time up to the specified submission deadline.
- g) All costs of proposal preparation shall be borne by the firm. ACTA shall not, in any event, be liable for any pre-contractual expenses incurred by a firm in the preparation and/or submission of the proposal.
- h) Unnecessarily elaborate or lengthy proposals or other presentations beyond those needed to give sufficient and clear response to all of the RFP requirements are not desired.
- i) The proposal must set forth accurate and complete information as required in this RFP. Unclear, incomplete, and/or inaccurate documentation may not be considered for contract award.
- j) Proposals shall be reviewed and rated by ACTA as submitted. Firms may make no changes or additions after the deadline for receipt.
- k) A firm will not be recommended for a contract award, regardless of the merits of the proposal submitted, if it has a history of contract noncompliance with ACTA, the City of Los Angeles, the City of Long Beach, the County of Los Angeles or other funding source or poor past or current performance with these entities or other funding source.
- l) ACTA reserves the right to retain all proposals submitted and the proposals shall become the property of ACTA. ACTA has the right to use any of the ideas presented in the proposal submitted. All proposals received by ACTA will be considered public records subject to disclosure under the Public Records Act. (California Government Code Section 6250 et seq.), except to the extent the proposal contains legal advice that may be considered privileged and confidential under applicable law. ACTA reserves its right to assert the attorney-client privilege with respect to the content of the proposal. Proposers must identify any material they claim is exempt from disclosure under the Public Records Act. In the event such exemption is claimed, the proposer shall state in the proposal that the firm will defend any action brought against ACTA for its refusal to disclose such material to any party making a request thereof. Failure to include such a statement shall constitute a waiver of proposer's right to exemption from disclosure.

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- m) Discussions that may occur during the interview process may include disclosures by ACTA or preliminary advice given by the proposer that shall be treated as an attorney-client privileged communication. ACTA and its Co-General Counsel contemplate that such communications will be received in confidence and will be securely maintained by the recipient in full conformance with attorney-client privilege and the holding in *Benge v. Superior Court* which states as follows:

"... there is no requirement that the attorney actually be employed in order to create an attorney client relationship. Evidence Code section 951 states the prevailing view that a person may discuss a potential legal problem with an attorney for purposes of obtaining advice or representation and statements made are privileged whether or not actual employment ensues." (citations omitted) [*Benge v. Superior Court* (1982) 131 Cal.App.3d 336, 345; 182 Cal.Rptr. 275, 280.]
- n) Upon completion of all work under this contract, ownership and title of all reports, documents, plans, drawings, specifications, and estimates produced as part of this contract will automatically be vested in ACTA, and no further agreement will be necessary to transfer ownership to ACTA. Copies made for the law firm's records shall not be furnished to others without written authorization from ACTA.
- o) The contracts awarded from this RFP are expected to begin in July 2018 and last for five years.
- p) ACTA may award a contract on the basis of proposals submitted, without discussions, or may negotiate further with those proposers within a competitive range. Proposals should be submitted on the most favorable terms the proposer can provide.

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