

City of Port Angeles

Request for Statement of Qualifications

Federal Claims and Litigation

The City of Port Angeles is seeking Statements of Qualification from law firms and qualified individuals with an interest in representing the City as Special Legal Counsel for the limited purposes and issues described below. Applicants must be familiar with and have experience in the law and practice relating to federal claims and litigation. Qualified respondents also must be admitted to practice in all State and Federal Courts in the State of Washington, and a member in good standing of the Washington State Bar Association.

Statements of Qualification are the first stage of the City's hiring process. Applicants are requested to submit a statement describing their qualifications, experience and key personnel proposed to work on the project. The submittal should also include discussion of project understanding and a proposed approach to the work. Relevant background and scope of services are described below. Following submittal of the statement of qualifications, the City may select the most qualified counsel or narrow the field and base a final selection on interviews. The final phase of selection includes the contracting process of agreeing on the specific scope of work and budget. The City anticipates, but is not obligated, to make a selection and enter into a contract by mid-June 2016.

BACKGROUND

The City has an in-house City Attorney, who provides legal services to the City Council and the City Manager for most of the City's legal affairs. The City retains outside counsel (Special Counsel) for issues that require focused knowledge and expertise that fall outside of general municipal law.

The City is seeking the services of an attorney or firm that has experience in federal claims and litigation to serve as Special Counsel for the City. The scope of this engagement will be detailed in a Legal Consulting Services Agreement as detailed below. The primary task is to advise the City regarding protection of its Elwha River drinking water and industrial water supplies from the effects of the federal government's removal of two dams from the River, including negotiation strategies and potential mediation and litigation.

Removal of the dams from the Elwha River was authorized by the Elwha River Ecosystem and Fisheries Restoration Act (Public Law 102-495), January 3, 1992

(EREFRA). Prior to removal of the dams, the City obtained both domestic water and industrial water from the Elwha River. EREFRA authorized removal of the dams, but it also directed the Secretary of Interior to take actions necessary to protect the quality and availability of water from the Elwha River for the City's municipal and industrial uses. It is this obligation that will be the subject of the Special Counsel's work.

The National Park Service (NPS) is the sub-agency that has been authorized by the Secretary of Interior to manage the dam removal project, including the construction and operation of mitigation facilities to protect the City's water systems. The dams have been removed, and now the City is negotiating with NPS for an additional agreement. That agreement would transfer certain mitigation facilities to the City and address other concerns about the federal government's actions and obligations to the City and the Lower Elwha Klallam Tribe (Tribe) under EREFRA. The Tribe is a party to these negotiations and is represented by its own counsel. NPS has announced a deadline of October 2016 for the transfer of mitigation facilities. It may or may not be possible to reach a satisfactory agreement by that deadline. The City, therefore, intends to hire Special Counsel to advise and assist the City regarding the transfer agreement.

LOCATION OF APPLICABLE LAWS AND AGREEMENTS

EREFRA and other documents relating to removal of the dams, can be seen at

<http://www.nps.gov/olym/learn/nature/elwha-restoration-docs.htm>

General information about the dam removal project can see viewed on the National Park Service website at

<http://www.nps.gov/olym/learn/nature/elwha-ecosystem-restoration.htm>

Numerous documents are relevant to the issues to be addressed by the Special Council. Of those documents, two provide a basic introduction to the issues. They are the Memorandum of Understanding, dated August 6, 2004, together with accompanying letter, and the PAWTP Transfer Agreement, dated October 8, 2008. The following are links to these documents:

[MOU, Contract 5.685 =](#)

<http://65.243.149.132/WebLink8/DocView.aspx?id=25027&dbid=0>

[PAWPT, Contract 5.914 =](#)

<http://65.243.149.132/WebLink8/DocView.aspx?id=64615&dbid=0>

Additional confidential background material will be provided pursuant to confidentiality agreements to those firms selected for the final stage of this selection process.

SCOPE OF SERVICES

The Special Counsel will be part of the City's team working on the Elwha dam removal project. The scope of services shall include:

1. Consult with the City attorneys assigned to the project team and outside counsel to evaluate potential claims available to the city under EREFRA and related laws and agreements, including analysis of strengths and weaknesses of the City's positions and cost-effectiveness of potential litigation and administrative proceedings.
2. Participate in negotiations with NPS on transfer of federal facilities to the City, including ongoing obligation of NPS related to the operating costs and permitting requirements of such facilities and other consequences of the dam removal project.
3. Litigate and handle administrative proceedings for matters subject to federal jurisdiction as directed by the City.
4. Advise and coordinate with any City litigation matters in state and federal courts.
5. Advise and coordinate with any Federal Acquisition Regulation administrative action, if any.
6. Suggest other attorneys, consultants, and expert witnesses who will enhance the city's position in negotiations or litigation.
7. Identify strengths and weaknesses of the City's positions related to the proceedings necessary to obtain the full rights and benefits due to it under EREFRA.
8. Coordinate work efforts with other counsel, appraisers, engineers, financial advisors, and other consultants selected by the City.
9. Attend meetings, either in person or audio/video conference calls, with City attorneys and other consultants to identify and evaluate options for obtaining the goals set by the City.
10. Provide a detailed monthly issues statement (attorney/client privileged), attached to an invoice (public record) for work performed.

REQUIREMENTS FOR STATEMENTS OF QUALIFICATION

The statement shall contain and will be evaluated on the following sections:

1. A cover letter describing the following:
 - a. The firm and the individuals on the proposed project team, including relevant email addresses and telephone numbers;
 - b. The project contact person, including complete contact information;
 - c. Brief background experience, specific to this project, for the principal individuals who will work on this project.
2. A detailed description, in narrative form, responsive to the following subjects.
 - a. Describe the special expertise of the firm members who will be assigned to this project. Specifically include a description of:
 - i. Involvement your firm has had in contested proceedings against the federal government or its agencies.
 - ii. Involvement your firm has had handling contested matters involving the Department of Interior.
 - iii. The specific outcomes that resulted from your involvement;
 - b. Describe the work the firm (explaining in each case the attorney's role in this matter) has done before federal courts to support municipal clients, including recent trials, administrative proceedings, motions and appeals. Include a description of:
 - i. The level and extent of your activities over the past five years;
 - ii. Any relevant experience in federal litigation proceedings related to the enforcement of rights derived from tort claims or from federal legislation.
 - iii. Any other experience of your firm that may be relevant to the City's interests regarding the Elwha dam removal project
 - c. Describe how your firm will "partner" with members of the City team to train and utilize staff and to contain costs to the City.
 - d. Describe other resources (litigation, legislative advocacy, government relations, rule making efforts, etc.) that your firm has that could benefit the City in this matter.
 - e. Describe any unique or unusual attributes of your firm that make your firm particularly well qualified to assist the city in this matter.
 - f. Please disclose information related to the following:
 - i. Any positions taken in lobbying or administrative or rule making actions that would be contrary to the City's position in this matter.
 - ii. Any positions taken in litigation or administrative proceedings that would be contrary to the City's position in this matter.
3. A Statement of Billing Rates, including the following:
 - a. The regular billing rate of each individual proposed as part of the team;
 - b. Any rate concessions, discounts, payments over time or rate freezes;
 - c. A detailed alternative billing plan, or set of plans or options, which you would propose for providing legal services other than on an hourly basis, such as flat fees, blended rates, etc;
 - d. A description of how the firm stays within previously established budgets and how you would propose to handle a situation when the firm is over budget on a particular task or matter.

4. Confirmation that the firm does not have any legal conflicts of interest if its proposal is accepted by the City Attorney's Office; and
5. Name, employer, position, and phone number for client references for all work experience matters described in your previous responses.
6. Any additional services that the firm would propose to offer.

All consultant communications concerning this RFQ should be directed to

Legal Department
City of Port Angeles
321 E. 5th
Port Angeles, WA 98362

SELECTION CRITERIA and PROCESS

Selection will be based upon:

1. Knowledge and experience in: federal claims, litigation, and administrative procedures related to issues likely to arise in this matter.
2. Familiarity with the area of law
3. Approach to quality control, case management and decision delivery
4. Making effective use of public resources
5. Readiness and availability.
6. Response of references
7. Interviews, if held by City

PROCESS AND TIMELINE FOR SELECTION

The City's intended process and timeline for selecting Special Counsel is as follows (subject to change):

- April 15, 2016 - 5:00 PM – Deadline for RFQ submittals.
- April 29, 2016 – City selection or announcement of short list
- May 13, 2016 Submittal of fee proposals
- Week of May 23, 2016 Interview of final candidates
- June 1, 2016 City selection of final candidate

INSTRUCTIONS TO PROPOSERS

The deadline for submission of qualifications is 5:00 PM, , 2016.
Mail-in submittals must be post-marked no later than, 2016.

For questions about this RFQ, please contact

Legal Department
City of Port Angeles
321 E. 5th
Port Angeles, WA 98362
(360) 417-4510 or Agates@cityofpa.us

TERMS AND CONDITIONS

1. The City reserves the right to reject any and all proposals, to waive minor irregularities in any proposal and to change the selection process or timeline.
2. The City reserves the right to request clarification of information submitted, and to request additional information from any proposer.
3. The contract resulting from acceptance of a proposal by the City shall be in a form supplied by the City, and shall reflect the specifications in this RFQ.
4. The City shall not be responsible for any costs incurred by an interested party in preparing, submitting or presenting its response to the RFQ.