

DRAFT

Request for Proposals

Legal Counsel

November 2018

Utah Inland Port Authority

UTAH INLAND PORT AUTHORITY
REQUEST FOR PROPOSALS FOR
LEGAL COUNSEL

I. SUMMARY

The Utah Inland Port Authority (the “Authority”) requests proposals for the provision of legal services to the Authority. The Authority was created in 2018 by the Utah State Legislature. The Authority is an independent, nonprofit, separate body corporate and politic, with perpetual succession; a political subdivision of the state; and a public corporation. The purpose of the Authority is to fulfill the statewide public purpose of working in concert with applicable state and local government entities, property owners and other private parties, and other stakeholders to encourage and facilitate development of the authority jurisdictional land to maximize the long-term economic and other benefit for the state, consistent with the strategies, policies, and objectives described in this chapter, including: (i) the development of inland port uses on the authority jurisdictional land; (ii) the development of infrastructure to support inland port uses and associated uses on the authority jurisdictional land; and other development on the authority jurisdictional land.

The Authority is requesting proposals from attorneys to provide legal services on matters including but not limited to land use, real estate, development, bonding, tax differential incentivization, development agreements, Open and Public Meetings, Government Records Access Management Act, contracting, human resources and employment law, and other matters as they arise. Responding attorneys must demonstrate experience and expertise in specific legal matters related to these issues, including but not limited to securities lending, transition management, private equity, real estate, infrastructure, limited partnership representation, public-private partnerships, and similar areas.

Note: A firm will be considered if it can provide services in any or all of the categories of legal services listed above.

II. SERVICES REQUIRED.

Counsel for the Utah Inland Port Authority will be required to offer services in and related to the areas described above, including but not limited to:

1. Review and/or draft contracts with developers, brokers, governmental entities, nonprofit entities, investment consultants, custodians, investment managers and other investment service providers.
2. Provide advice on tax issues related to tax differentials, public financing, public-private partnerships, investment of public funds, and other relevant situations.;
3. Provide advice on other various issues, including but not limited to: investment matters, real or potential conflict of interest situations, statutory interpretation, the Utah Open and Public Meetings Act, the Utah Government Records Access and Management Act, federal and state statutes governing public employees, and environmental protection and preservation.
4. Employment law and administration.
5. Provide such other legal services as may be requested by the Utah Inland Port Authority from time to time.

III. PROPOSAL CONTENTS

Any attorney or firm responding to this RFP must submit its proposal via e-mail in one electronic document. A specific outline must be followed in order to facilitate the Utah Inland Port Authority's review and evaluation of the responses received. A response to this RFP must include the following sections in the order listed:

Transmittal letter

Executive Summary

Provider's Expressed Understanding of the Services Required

Provider's Detailed Cost Projection

Provider's Responses to the Questions set forth below.

IV. RFP QUESTIONS

A. Background:

1. Briefly describe your background, size and history pertinent to the requested services in this RFP. Indicate which office will service the Utah Inland Port Authority. Pay particular attention to development and land use expertise and experience, experience advising public entities, and public sector plan experience in the areas of investments (including private equity investments), and/or tax related services.
2. Describe, in detail, your understanding of the services requested in this RFP. Provide a narrative that supports why you believe that you are uniquely qualified to undertake the proposed engagement.
3. Describe the relevant special services you provide, particularly those that may not be offered by other providers.
4. Describe in detail your knowledge of, and experience with, employment law, employment contracts and the Utah Retirement System.
5. Describe in detail your firm's knowledge of, and experience with, Utah law concerning state agencies and political subdivisions of the state, including but not limited to provisions governing public employment, interlocal or intergovernmental agreements, and public and private partnerships.
6. Describe your understanding of the Government Records and Management Act as it relates to the matters considered by the Utah Inland Port Authority, including but not limited to development, tax differential, land use, open and public meetings requirements, and private market investments.
7. Describe your experience in negotiating custodial agreements, non-custodial securities lending agreements, transition management agreements and limited partnership agreements.
8. Describe the anticipated role of the Utah Inland Port Authority's Board of Directors and staff in your delivery of the services contemplated herein.
9. External counsel is expected to provide an estimated cost and timeline of expected events prior to commencement of a project assignment. Please provide a sample timeline that your firm would use for such projects.
10. What resources are used to ensure terms that are competitive when negotiating real estate, private equity, infrastructure or other types of agreements?

11. Within the past three years, have there been any significant developments in your firm or organization such as changes in ownership or restructuring? Do you anticipate any significant changes in the future? If so, please describe.
12. Has your firm or an attorney in your firm's employ ever been disciplined or censured by any regulatory body? If so, describe the principal facts.
13. How does your firm identify and manage conflicts of interest? What conflicts of interest might exist between the clients that your firm currently represents and the services requested in this RFP? Please detail any existing or potential conflicts that might arise in providing these services.
14. Are there any potential conflict of interest issues for your firm in servicing the Utah Inland Port Authority? If so, describe them.
15. Within the last five years, has your firm or organization, or a partner or attorney in your firm or organization, been involved in litigation or other legal proceedings relating to the provision of legal services? If so, provide an explanation and indicate the current status or disposition of the proceedings.
16. Does your firm or organization represent any other public entity in the state of Utah? If so, list the full name, address and telephone number of each entity and telephone number of the executive director and general counsel.
17. List any professional or personal relationships your firm's attorneys may have with the Board of Directors of the Utah Inland Port Authority.
18. List all attorneys you would expect to render legal services if your firm is engaged to serve as outside counsel and the area(s) of specialization of each. Describe the role of each attorney who would be assigned. Provide details as to each attorney's overall experience, number of years with your firm, educational background and professional affiliations. Are any of the attorneys listed, pursuant to this question, rated by Martindale Hubbell? If so, provide the Martindale Hubbell rating for each.
19. Describe your legal team's experience with similar work. State whether or not the attorneys assigned to this team have any responsibilities other than providing legal services, and if so, specify such responsibilities.
20. Describe your firm's experience with respect to drafting legislation generally, and specifically, with respect to the Utah Code.
21. Describe your firm's backup procedures in the event one or more attorneys assigned to the Utah Inland Port Authority leave the firm. Identify the key attorney who will be the primary contact and lead counsel in providing services to the Utah Inland Port Authority, whose continuing status as such is an essential element of any contract.
22. Has your firm or organization been asked to commence legal proceedings against a local or state governmental entity for which your firm was also

rendering legal services? If so, what steps and procedures did your firm employ?

23. Describe your firm or organization's ability to timely evaluate, comment, and provide legal recommendations with respect to draft/pending legislation.
24. Describe how your firm will keep the Utah Inland Port Authority updated with regard to changing market regulations or other legislative developments that may impact the work of the Authority.
25. Describe your firm or organization's diversity policies and practices. Identify any minorities, women and persons with disabilities that would be assigned to this account.

B. References:

Provide three client references for which your firm has performed work similar to that requested in this RFP. Provide each client's in-house counsel's (or, if none, CEO's) name, address and telephone number.

C. Previous Clients:

Identify all public sector clients who have terminated their working relationship with you in the past five years and a brief statement of your understanding of their reasons for doing so. Provide each such client's in-house counsel's (or, if none, CEO's) name, address and telephone number.

D. Insurance and liability:

1. What limitation on liability, if any, do you impose through your contract?
2. Describe the levels of coverage for legal malpractice insurance and any professional liability insurance your firm carries. List the insurance carrier(s) and each carrier's rating by a nationally recognized service.
3. Describe your firm's disaster recovery plan and facilities.

E. Fees:

Describe in detail the billing rates, practices and policies of your firm that would apply if your firm were engaged to serve as outside counsel. The Utah Inland Port Authority is also interested in negotiating a flat fee structure for "routine work" (e.g., partnership agreement review, side letter drafting) to be performed by the selected firm(s). With that in mind, please propose a not-to-exceed fixed fee for recurring legal services contemplated by this request for proposal, clearly

identifying the type of project and the associated fee, which should include all costs, reimbursable expenses, or other charges to the Utah Inland Port Authority in connection therewith.

V. Appendices:

Appendix A – Biographies

Include biographies for all attorneys listed in your proposal. Indicate what year each attorney joined your firm and describe his or her position, current responsibilities, areas of expertise, experience, education, professional designations and memberships, and relevant publications and presentations dealing with the representation of public clients.

Appendix B – Sample Contract or Agreement

Attach a sample contract or agreement your firm or organization uses for governmental legal services.

VI. OTHER INFORMATION

Describe any other processes, and provide any additional information, that you believe to be relevant to this RFP and your capability to provide the services requested.

VII. CONFLICTS OF INTEREST

The law firm and/or attorney(s) chosen must provide the Utah Inland Port Authority with written assurance that no conflict of interest will exist between the Utah Inland Port Authority and other clients.

VIII. PROPOSAL SUBMISSION

In order to be considered for selection, proposals must be received via email in Adobe Acrobat or Word format by _____ at _____ no later than _____. **Please reference the “Outside Legal Counsel RFP” in your proposal.** An e-mail confirmation will be sent confirming receipt of the proposal.

Proposals will be confidential during the selection process. Upon completion of the selection process, all responses, including that of the firm or individuals(s) selected, will be a matter of public record.

All materials submitted in response to the RFP become property of the Utah Inland Port Authority. Proposals remain confidential during the selection process. However, upon completion of the selection process, all responses, including that of the individual or firm selected, will be a matter of public information and will be open to public inspection in accordance with the requirements of the Governmental Records and Management Act.

If, in response to this RFP, trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business responding to this RFP, such claim must be clearly made and such information must be clearly identified in accordance with the requirements of GRAMA. Materials shall only be protected to the extent permitted by GRAMA and only to the extent necessary to protect proprietary, privileged, or confidential information as defined by GRAMA.

Redacted Version of RFP Response: In the event responder believes certain materials in the submitted response are exempt from public disclosure in accordance with language in this section, responders are asked to provide a redacted version of the response it believes will be suitable for release under GRAMA.

However, any claim of privilege from disclosure is not definitive. The Utah Inland Port Authority has the right and legal obligation to determine whether such information is exempt from disclosure under GRAMA and no information will be considered or determined by the Utah Inland Port Authority to be proprietary, privileged or confidential unless it is identified and/or separated as indicated herein.

IX. AGENCY CONTACT AND SELECTION PROCESS

Prospective respondents who may have questions regarding this RFP may email _____ at _____ by _____. **Please reference the “Outside Legal Counsel RFP” in your communications.** The question(s) (without identification of the questioner) and the answer(s) will be emailed to all parties who have contacted the Utah Inland Port Authority via email indicating

interest in responding to the RFP and will also be posted on the Utah Inland Port Authority website.

Rights Reserved. This RFP does not obligate the Utah Inland Port Authority to complete the RFP process. The Utah Inland Port Authority reserves the right to amend any segment of the RFP prior to the announcement of the selected legal counsel. In case of such amendment, all respondents will be afforded the opportunity to revise their proposals to accommodate the RFP amendment. The Utah Inland Port Authority reserves the right to award all, part, or none of this contract and may award contracts to more than one law firm or individual if deemed appropriate and desirable. The Utah Inland Port Authority also may, at its discretion, issue a separate contract for any service or groups of services included in this RFP. The Utah Inland Port Authority may negotiate additional provisions to the contract awarded under this RFP.

X. EVALUATION AND SELECTION PROCESS

Proposal evaluation process. The evaluation process will be structured to secure highly skilled, diligent, responsive and experienced professional personnel who will be effective in providing the high quality of legal services that the Utah Inland Port Authority desires. The primary objective of the evaluation process is to select a firm or individual(s) that:

- clearly demonstrates a thorough understanding of the scope of the engagement and the specific responsibilities entailed;
- possesses adequate resources to handle assigned responsibilities and to handle extenuating circumstances that may arise;
- assigns highly skilled, experienced, diligent, responsive and professional personnel to perform the required duties;
- maintains high ethical standards and reputation;
- is competitive in terms of fee;
- has no conflict of interest existing between the Utah Inland Port Authority and other clients; and

Selection Process. The selection process under this RFP will be as follows:

1. Non-Qualifying Proposals

The Utah Inland Port Authority will evaluate each proposal to determine if it was submitted in accordance with the requirements set forth in this RFP. All non-qualifying proposals will be rejected at this time and the rejected proposing firms so notified.

2. Selection of Finalists

The qualifying proposals will be evaluated by the Utah Inland Port Authority. Responders may be invited to a due diligence interview. Following a review of submitted materials, selected firms should be prepared to be interviewed or to make a presentation to the Utah Inland Port Authority Board of Directors, if requested. Finalists will be selected to provide service on the basis of sufficient experience and capability to provide the services set forth herein at a rate acceptable to the Utah Inland Port Authority.

All costs of responding to the RFP, including any travel expenses incurred, are at the cost of the responder.