



Association of Monterey Bay Area Governments

**Request for Proposals
for
Environmental Legal Services**

Not to Exceed \$75,000

Issued: May 13, 2019

Questions Due: June 3, 2019

Deadline (received by AMBAG): July 9, 2019

Submit all questions and proposals to:

Heather Adamson | AMBAG | 24580 Silver Cloud Court, Monterey, CA 93940

hadamson@ambag.org | fax 831.883.3755

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Introduction

AMBAG seeks attorneys with expertise in environmental law to be available under contract at set rates for both transactional/planning and litigation matters. The main project involves working with AMBAG and its consulting firm on preparation of the EIR for the 2045 Metropolitan Transportation Plan/Sustainable Communities Strategy (MTP/SCS) and the Regional Transportation Plans (RTPs) for Monterey, San Benito, and Santa Cruz counties. The separate consulting firm that will prepare the 2045 MTP/SCS/RTPs EIR is expected to be under contract in the next few months and AMBAG hopes to hire a law firm to provide legal advice on the EIR. Other projects for which AMBAG may need environmental legal counsel are described in more detail in the Scope of Work.

Scope of Work & Project Deliverables

The following provides details of the scope of services required under this contract. Respondents to this RFP should build on this general description by proposing a scope of work with specific sub-tasks as deemed appropriate. Some tasks may require additional information from respondents as called out under the description of each task. Respondents should also refer to the Proposal Requirements, and Evaluation and Selection Process sections for additional requirements.

Additional tasks and work elements may be added or deleted during contract negotiations. Upon conclusion of the negotiation process, the selected consultant will be required to prepare a final work plan, schedule, and budget for inclusion into a final contract.

TASK 1: General Environmental Legal Services

- Advise and assist staff as necessary related to environmental documents under CEQA as well as any other state, federal or local law or regulation related to land use, housing, and transportation planning.
- Prepare for and attend meetings with AMBAG staff on an as needed basis.
- Conduct research and prepare memoranda of law and on relevant legal subject areas as directed.
- Brief AMBAG staff on status of project on an as needed basis.
- Other tasks, legal review of documents as needed.

Task 2: Legal Review of the MTP/SCS EIR

- Advise AMBAG staff and environmental consultant on the strategy and approach of the EIR for the 2045 MTP/SCS, baseline analysis and horizon year(s) analysis.
- Review and comment in writing and/or orally on drafts of EIR sections as they are developed by environmental consulting firm hired by AMBAG.
- Conduct research and prepare memoranda of law on relevant legal subject areas as directed.
- Prepare for and attend meetings with AMBAG staff on an as needed basis.

- Other tasks, legal review of draft EIR sections, board reports and/or other documents as needed.
- Brief AMBAG staff on status of project on an as needed basis

Task 3: Litigation

- Advise and represent AMBAG when its environmental reviews and analyses are challenged. This could include settlement discussions, writ proceedings, and or civil proceedings in state or federal court. It could include but not be limited to preparing pleadings and settlement agreements, and conducting discovery. Drafts of litigation documents must be prepared sufficiently far enough in advance to allow AMBAG time to review and comment.
- Conduct research and prepare memoranda of law on relevant legal subject areas as directed.
- Preparation or supplementation of administrative records and drafting, service and filing of all briefs and legal documents (as needed)
- Formulation of strategic arguments and strategic partners to file amicus briefs (as needed)
- Prepare for, attend, and participate in settlement conferences and/or alternative dispute resolution (as needed)
- Coordination with other litigants (as needed)
- Prepare for and attend meetings with AMBAG staff on an as needed basis.
- Other tasks, board reports and/or other documents as needed.
- Brief AMBAG staff on status of project on an as needed basis

Schedule

| Task | Completion Date |
|---|-----------------|
| Release RFP | May 13, 2019 |
| Questions Due | June 3, 2019 |
| Post responses to questions/addendum (as needed) | June 7, 2019 |
| Proposals Due | July 9, 2019 |
| Evaluation Committee Completes Proposal Review | July 17, 2019 |
| Short listed consultants notified | July 18, 2019 |
| Oral Interviews | August 6, 2019 |
| Consultant Selection and Notice of Intent | August 7, 2019 |
| Candidates Not Recommended for Selection Notified | August 7, 2019 |
| Notice of Intent to Protest Deadline | August 10, 2019 |
| AMBAG Board Approval of Consultant | August 14, 2019 |
| Execute Contract | August 19, 2019 |

Proposal Submittal

Interested consultants must submit both hard copies and a digital copy of the proposal to the Project Manager as follows:

Hard copy: One original, five copies

Digital: Send as a single PDF or PDF portfolio

All submissions must be received by AMBAG on or before July 9, 2019 at 4:00 p.m. Pacific Daylight Time (PDT). By submitting a proposal, the Proposer certifies that his or her name or the consultant firm's name, as well as the name of Proposer's subcontractors, does not appear on the Comptroller General's list of ineligible contractors for federally assisted projects.

Until award of the contract, the proposals shall be held in confidence and shall not be available for public review. Upon award of a contract to the successful Proposer, all proposals shall become public record. No proposal shall be returned after the date and time set for opening thereof.

Submittal Questions and Addenda

All questions regarding this RFP should be received no later than June 3, 2019 at 4:00 p.m. PDT by e-mail to Heather Adamson at hadamson@ambag.org or by fax to 831.883.3755. Responses that require that an addendum be issued to the RFP will be posted on the AMBAG website at www.ambag.org on or before June 7, 2019 at 4:00 p.m. PDT. It is the responsibility of proposers to check the AMBAG website to determine if any addenda have been issued. Any addenda to the RFP will become part of the RFP.

AMBAG reserves the right to revise the RFP prior to the date that proposals are due. It is the responsibility of proposers to check the AMBAG website to determine if a modified RFP has been issued.

Notice of Award

Shortlisted candidates will be contacted by July 18, 2019. The short listed consultants will be interviewed. Interviews will take place on August 6, 2019. The final recommended consultant shall be informed by phone on or before August 7, 2019. Candidates not recommended for contract award shall be informed by August 7, 2019.

Project Manager

Heather Adamson, Director of Planning
Association of Monterey Bay Area Governments
24580 Silver Cloud Court, Monterey, CA 93940
Email | hadamson@ambag.org (preferred communication)
Fax | 831.883.3755

Proposal Requirements

- A. Proposals should be concise, well organized and demonstrate the proposer's qualifications and experience applicable to the project. Proposals shall be limited to 50 one-sided or 25 double-sided pages (8.5 inches x 11 inches). The proposal must include a discussion of the proposer's approach to the project, a description of the firm's and any subconsultants' qualifications for the scope of work, and a cost estimate.

- B. The proposal and any required certifications shall be signed by an individual or individuals authorized to execute legal documents on behalf of the proposer.
- C. Failure to comply with the requirements of the RFP may result in disqualification. AMBAG is not responsible for finding, correcting, or seeking clarification regarding ambiguities or errors in proposals. If a proposal is found to contain ambiguities or errors, it may receive a lower score during the evaluation process. AMBAG may, but is not required to, seek clarification from a proposer regarding information in a proposal. Errors and ambiguities in proposals will be interpreted in favor of AMBAG. Proposals and/or modifications received subsequent to the hour and date specified above will not be considered.
- D. The proposer shall certify whether it takes no exception(s) to this RFP. If the proposer does take exception(s) to any portion of the RFP, the specific portion to which exception(s) is taken must be identified and explained. Failure to make exceptions to the RFP within the proposal will be deemed a waiver of any objection. Exceptions will be considered during the proposal evaluation process.
- E. AMBAG reserves the right to reject any or all proposals and to waive irregularities contained therein and to accept any proposals deemed most advantageous to AMBAG.

Evaluation and Selection Process

- A. Based upon the proposals and other appropriate evaluation factors, the top-ranked proposer(s) will be identified and short listed. Negotiations with the selected firm may cover: scope of work, contract schedule, contract terms and conditions, technical specifications, level of effort, and price.
- B. Proposers will be evaluated on the following criteria according to the weights assigned below. Oral interviews will be worth 100 points. AMBAG reserves the right to add the proposers' interview scores into the evaluation criteria or to select proposers based solely upon their proposal and/or oral interview.
- C. All proposals must be completed and convey all of the information requested in order to be considered responsive. The proposals then will be evaluated on the basis of the criteria listed below. The total number of points used to score the proposals is 100.
- D. Evaluation factors and point values will be as follows:

| Criteria | Description | Points |
|--|---|---------------|
| Proposed method to accomplish the work | <ul style="list-style-type: none"> ▪ Professional qualifications ▪ Relevant experience | 25 |
| Project experience | <ul style="list-style-type: none"> ▪ Nature, quality, and relevance of recently completed projects | 25 |
| Staff Qualifications | <ul style="list-style-type: none"> ▪ Unique qualifications of key personnel | 20 |
| Cost or Best Value | <ul style="list-style-type: none"> ▪ Ranking of comparative costs among proposed firms, providing the best value of services offered | 30 |
| Total | | 100 |

All proposers must complete a Cost Estimate form (see RFP Attachment A) in addition to the written proposal.

The Evaluation Committee will review all submitted proposals. Proposers may be emailed and asked for further information, if necessary, and may be expected to appear for oral interviews on July 31, 2019. The Evaluation Committee will make recommendations to AMBAG’s Executive Director on the basis of the proposal, oral interview, and reference check. AMBAG reserves the right to select a consultant based solely on written proposals and to not convene oral interviews.

AMBAG’s Executive Director will review the Evaluation Committee’s recommendation and make the final recommended selection to the AMBAG Board of Directors. If the Board of Directors selects a different consultant than the one recommended by the Evaluation Committee, the Project Manager, in consultation with the AMBAG Executive Director, will prepare a memo explaining the selection.

Contractual Information and Payment Schedule

The contract agreement for Environmental Legal Services will be between AMBAG and the Consultant. The consultant will invoice AMBAG for services rendered, and AMBAG will compensate the consultant for these services as set forth in the agreement. Funding for the consultant services will be provided by AMBAG. The project deliverables will be reviewed by the AMBAG Project Manager.

The Consultant will be paid based on work actually performed, and accepted in writing by AMBAG, during the preceding month. The consultant should forward a copy of all invoices for payment for work performed and associated expenses by the 15th day of the month.

Terms & Conditions

A. Limitations

This request for proposal (RFP) does not commit AMBAG to award a contract, to pay any pre-contractual expenses, or to procure or contract for services or supplies. AMBAG expressly reserves the right to reject any and all proposals or to waive any irregularity or informality in any proposal or in the RFP procedure and to be the sole judge of the responsibility of any Proposer and of the suitability of the materials and/or services to be rendered. AMBAG reserves the right to withdraw this RFP at any time without prior notice. Further, AMBAG reserves the right to modify the RFP schedule described above.

B. Award

AMBAG may ask RFP finalists to present oral briefings of their proposals. All finalists may be required to participate in negotiations and submit such price, technical, or other revisions of their proposals as may result from negotiations. AMBAG also reserves the right to award the contract without oral briefings or discussion, based upon the initial written proposals. Accordingly, each initial proposal should be submitted on the most favorable terms from a price and a technical viewpoint.

C. Verbal Agreement or Conversation

No prior, current, or post award verbal conversations or agreement(s) with any officer, agent, or employee of AMBAG shall affect or modify any terms or obligations of the RFP, or any contract resulting from this RFP.

D. Pre-contractual Expenses

Pre-contractual expenses include any expenses incurred by Proposers and selected contractor in:

- Preparing proposals in response to this RFP
- Submitting proposals to AMBAG
- Negotiations with AMBAG on any matter related to proposals.
- Other expenses incurred by a contractor or Proposer prior to the date of award of any agreement.

In any event, AMBAG shall not be liable for any pre-contractual expenses incurred by any Proposer or selected contractor. Proposers shall not include any such expenses as part of the price proposed in response to this RFP. AMBAG shall be held harmless and free from any and all liability, claims, or expenses whatsoever incurred by, or on behalf of, any person or organization responding to this RFP.

E. Signature

The proposal will also provide the following information: name, title, address, and telephone number of individual with authority to bind the consultant or consultant firm and also who may be contacted during the period of proposal evaluation. The proposal shall be signed by an official authorized to bind the consultant or consulting firm and shall contain a statement to the effect that the proposal is a firm offer for at least a ninety (90) day period. Execution of the contract is expected by no later than August 19, 2019.

F. Conflict of Interest Statement

Consultants and consultant firms submitting proposals in response to this RFP must disclose to AMBAG any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided under Agreement for consultant services to be awarded pursuant to this RFP. If the consultant or firm has no conflict of interest, a statement to that effect shall be included in the proposal. The selected consultant shall refrain from and disclose subsequent potential conflicts during this contract. The consultant shall at all time avoid conflicts of interest, or the appearance of conflicts of interest, in the performance of this contract. The consultant shall file statements of financial interest on forms provided by AMBAG to the extent and at all times required by AMBAG's Conflict of Interest Code and applicable law.

G. Contract Arrangements

The successful consultant is expected to submit an engagement letter with the agreed upon rates and terms. Prior to the beginning, and throughout the duration, the consultant shall maintain insurance in conformance with the requirements set forth below. Consultant will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, it will be amended to do so. Consultant acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds in excess of the limits and coverage required in this contract and which is applicable to a given loss, will be available to AMBAG.

Consultant is covered by, and agrees to maintain, general liability insurance for bodily injury and property damage arising directly from its negligent acts or omissions with limits as specified below. Certificates of insurance shall be provided to AMBAG prior to commencement of work by Consultant. Consultant agrees to indemnify, protect, defend and name AMBAG, its public officials, officers and employees as additional insured on the Commercial General Liability and Business Auto Insurance and hold harmless from any loss, damage or liability arising directly from any negligent act or omission by Consultant. Consultant shall not be responsible for any loss, damage or liability arising from any act or omission by AMBAG, its officials, officers or employees.

Consultant shall provide the following types and amounts of insurance:

Commercial General Liability Insurance using Insurance Services Office "Commercial General Liability" policy form CG 00 01, with an edition date prior to 2004, or the exact equivalent. Coverage for an additional insured shall not be limited to its vicarious liability. Defense costs must be paid in addition to

limits. Limits shall be no less than \$1,000,000 per occurrence for all covered losses and no less than \$2,000,000 general aggregates.

Workers' Compensation on a state-approved policy form providing statutory benefits as required by law with employer's liability limits no less than \$1,000,000 per accident for all covered losses.

Business Auto Coverage on ISO Business Auto Coverage form CA 00 01 including owned, non-owned and hired autos, or the exact equivalent. Limits shall be no less than \$1,000,000 per accident, combined single limit. If Consultant owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Consultant or Consultant's employees use personal autos in any way on this project, Consultant shall obtain evidence of personal auto liability coverage for each such person.

Errors and Omissions Liability Consultant shall provide evidence of professional liability insurance on a policy form appropriate to Consultant's profession. Limits shall be no less than \$1,000,000/claim.

Certificate of Insurance Consultant shall file a certificate of insurance completed and filed with AMBAG within fifteen (15) days of execution of this Contract and prior to engaging any operation or activities set forth in this Contract. The foregoing policies shall provide that no cancellation, major change in coverage, or expiration by insurance company or insured during the term of this contract shall occur without thirty (30) days written notice to AMBAG prior to the effective date of such cancellation or change in coverage.

All such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of two (2) years after completion of the contract.

The Commercial General Liability and Business Auto insurance policies shall provide an endorsement naming AMBAG, its officers, agents, employees and volunteers as Additional Insured, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by AMBAG and that the insurance of the Additional Insured shall not be called upon to contribute to a loss covered by the insurance AMBAG.

H. Disadvantaged Business Enterprise (DBE)

H1. Disadvantaged Business Enterprise (DBE) Policy: It is the policy of the U.S. Department of Transportation (USDOT) that minority-and women-owned business enterprises (hereby referred to as DBEs) as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds.

H2. DBE Obligation: The recipient or its subcontractor agrees to ensure that DBEs have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all recipients or subcontractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that DBEs have the maximum opportunity to compete for and perform contracts. Recipients and their subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of USDOT assisted contracts.

H3. Title VI of the Civil Rights Act of 1964: The contractor agrees to comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (49 USC 2000d) and the regulations of the U.S. Department of Transportation issued there under in 49 CFR Part 21.

H4. Equal Employment Opportunity: In connection with the performance of the contract, the contractor shall not discriminate against any employee or applicant for employment because of race, color, age, creed, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

Each proposal, to be considered responsive, must include the following:

- (1) A copy of the consultant's affirmative action policy (applicable for firms with 50 or more employees)
- (2) Discussion of the consultant's program for use of DBEs in the performance of this work, including the following:
 - The names and addresses of DBE firms that will participate
 - The description of the work each named firm will perform
 - The dollar amount of participation by each DBE firm

I. Americans with Disabilities Act (ADA) Provisions

To comply with the nondiscrimination requirements of the Americans with Disabilities Act (ADA), it is the policy of AMBAG to make every effort to ensure that its programs, activities and services are available to all persons, including persons with disabilities. For persons with a disability needing a reasonable modification to participate in the procurement process, or for persons having questions regarding reasonable modifications of the procurement process, you may contact the AMBAG representative listed in this RFP.

IMPORTANT: To ensure that we can meet your need for ADA accommodations, it is best that we receive your request for reasonable modification at least 10 working days before the scheduled event (i.e., meeting, conference, workshop, etc.) or deadlines due date for procurement documents. In order to ensure the proposal is in compliance with Federal ADA guidelines, Proposers should review the Federal ADA guidelines at <http://www.ada.gov/>.

J. Alternative Protest Process

This procurement is being conducted under the provisions of the Alternative Protest Process. By submitting a proposal to this solicitation conducted under the Alternative Protest Process, the Proposer agrees that all protests of the proposed award shall be resolved by binding arbitration. During the protest period, any participating Proposer may protest the proposed award on the following grounds:

For major information technology acquisitions – that there was a violation of the solicitation procedure(s) and that the protesting Proposer's proposal should have been selected; or For any other

acquisition – that the protesting Proposer’s proposal should have been selected in accordance with the selection criteria in the solicitation document.

A written notice of intent to protest the proposed award of this solicitation must be received (facsimile acceptable) by the project manager before the close of business 4:00 p.m. PDT on the third (3rd) day after notifying the Proposer of intent to award, as specified in the solicitation timeline. Failure to submit a timely, written notice of intent to protest waives the Proposer’s right to protest. The Proposer is to send the notice of intent to protest to the project manager at the following address:

Heather Adamson
Director of Planning
Association of Monterey Bay Area Governments
24580 Silver Cloud Court, Monterey, CA 93940
Fax: 831-883-3755

Within seven (7) business days after the last day to submit a notice of intent to protest, the AMBAG project manager must receive from the protesting Proposer the complete protest filing including the signed, written, detailed statement of protest including exhibits, filing fee and deposit or small business certification, as applicable. Untimely submission of the complete protest filing waives the Proposer’s right to protest.

The protest bond amount for this Alternative Protest Process shall be ten percent (10%) of the contract amount as specified in the solicitation.

K. Requirements Protests

Protests regarding any issue other than selection of the successful Proposer are “requirements protests” to be heard by the Executive Director, or his or her designee, and may be appealed to, heard, and resolved by the Executive Committee of AMBAG, whose decision will be final. Before a requirements protest is submitted, the Proposer must make full and timely use of the procedures outlined in this RFP. This procurement procedure is designed to give the Proposer and AMBAG adequate opportunity to submit questions and discuss the requirements, proposals and counter proposals before the Final Proposal is due. The protest procedure is made available in the event that a Proposer cannot reach a fair agreement with AMBAG after exhausting these procedures.

All protests to the RFP requirements must be received by the Executive Committee as promptly as possible, but not later than the respective time and date as noted in this RFP for such protests.

Requirements protests must be mailed or delivered to:

AMBAG Executive Committee
24580 Silver Cloud Court
Monterey, CA 93940

Incorporation of Attachments

The following documents are attached and incorporated by reference if the box next to document title is marked.

- RFP Attachment A –Cost Estimate
- RFP Attachment B – Subconsultant List

COST ESTIMATE – RFP ATTACHMENT A

Project: _____

Consultant: _____

Services will commence on mm/dd/yy and be fully completed on mm/dd/yy.

Combined Overhead (%) +

| | | Hours | Actual Rate/Hr | Loaded* Rate/Hr | Labor Amount | Total | Date Due |
|----------------------------|----------------|-------|-------------------|--------------------|-----------------|--------|----------|
| Task 1: Description | | | | | | | |
| Name | Classification | | \$0.00 | \$0.00 | \$0.00 | \$0.00 | mm/dd/yy |
| Name | Classification | | \$0.00 | \$0.00 | \$0.00 | \$0.00 | |
| Name | Classification | | \$0.00 | \$0.00 | \$0.00 | \$0.00 | |
| | | | | | | \$0.00 | |
| Task 2: Description | | | | | | | |
| Name | Classification | | \$0.00 | \$0.00 | \$0.00 | \$0.00 | mm/dd/yy |
| Name | Classification | | \$0.00 | \$0.00 | \$0.00 | \$0.00 | |
| Name | Classification | | \$0.00 | \$0.00 | \$0.00 | \$0.00 | |
| | | | | | | \$0.00 | |
| Task 3: Description | | | | | | | |
| Name | Classification | | \$0.00 | \$0.00 | \$0.00 | \$0.00 | mm/dd/yy |
| Name | Classification | | \$0.00 | \$0.00 | \$0.00 | \$0.00 | |
| Name | Classification | | \$0.00 | \$0.00 | \$0.00 | \$0.00 | |
| | | | | | | \$0.00 | |
| Other Direct Costs | | | | | | | |
| Item 1 | Classification | | \$0.00 | \$0.00 | \$0.00 | \$0.00 | mm/dd/yy |
| Item 2 | Classification | | \$0.00 | \$0.00 | \$0.00 | \$0.00 | |
| | | | | | | \$0.00 | |

Total Hours:

Total Cost: \$0.00

* Loaded hourly rate: includes labor overhead, fringe benefit, and general administrative expenses (% of total direct labor cost)
 Loaded hourly rate calculation: \$ actual hourly rate x (1 + combined of overhead & fringe %) x (1 + fee %)

| | | | |
|---|------|--|------|
| Name and Title of Authorized Representative (typed) | Date | Signature of Authorized Representative | Date |
|---|------|--|------|

SUBCONSULTANT LIST – RFP ATTACHMENT B

The proposal shall include a complete list of all proposed subconsultants. All subconsultants listed must be provided a meaningful element of work within the defined scope of work. Changes to this Subconsultant List will not be allowed without prior written approval from AMBAG.

PROPOSED SUBCONSULTANTS

| Subconsultant Firm Name and Address | Scope of Work | Dollar Amount of Work |
|--|------------------|--------------------------|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

Name of Firm

Printed name and Title of Signatory

Signature

Date