



Municipality of Anchorage

Dave Bronson, Mayor
Purchasing Department

August 17, 2022

REQUEST FOR PROPOSAL

RFP 2022P037

Provide Regulatory Legal Services

The Municipality of Anchorage is an equal opportunity employer.

Enclosed is pertinent information for use in preparing your proposal.

Pre-Proposal Conference: **N/A**

Site Visit: **N/A**

Questions Due: **12:00 P.M. Local Time, August 30, 2022**

Proposals Due: **5:00 P.M. Local Time, September 8, 2022**

ONE SIGNED ORIGINAL, single sided, unbound, plus five (5) complete copies of your proposal must be submitted. In addition to the copies, a flash-drive containing a PDF copy of the complete proposal, including attachments must also be provided.

If applicable, the call-in phone number for Pre-Bid Conferences is 907-343-6089. Conference lines are opened 5 minutes prior to the Pre-Bid Conference times. To attend meetings in person; you may do so at 632 W. 6th Avenue, Suite 520, Anchorage, AK 99501. FOR AUXILIARY AIDS, SERVICES, OR SPECIAL MODIFICATIONS TO PARTICIPATE PLEASE CONTACT THE PURCHASING DEPARTMENT TO REQUEST REASONABLE ACCOMMODATIONS AT 907-343-4590; OR wwpur@muni.org

For further information contact Purchasing at (907) 343-4590 or email wwpur@muni.org. All correspondence should include the **RFP** number and title.

The Municipality of Anchorage reserves the right to reject any and all proposals and to waive any informalities in procedures.

Sincerely,

A handwritten signature in cursive script that reads "Chris Hunter".

Chris Hunter
Deputy Purchasing Director

Request for Proposals
RFP 2022P037
PROVIDE REGULATORY LEGAL SERVICES
Anchorage Water and Wastewater Utility

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1.0 GENERAL INFORMATION

1.1 Purpose

The purpose of this document is to solicit proposals from qualified firms to provide regulatory legal services. Regulatory legal services include certain matters before the Regulatory Commission of Alaska (RCA), such as, but not limited to, tariff filings, revenue requirement studies, cost of service studies, and depreciation studies. Legal services may also be requested for general advice on other AWWU matters as needed. The selected firm will work closely with the Regulatory Affairs Section of the AWWU Finance Division, the AWWU Division Directors, the AWWU General Manager, and the Municipal Attorney's Office.

1.2 Background

AWWU is a department of the MOA but is regulated by the Regulatory Commission of Alaska. AWWU is comprised of two separate RCA regulated utilities; the Anchorage Water Utility (CPCN No. 122) and the Anchorage Wastewater Utility (CPCN No. 126). AWWU obtains strategic support and representation through the proposed contract for the matters involving economic regulation of the utilities by the RCA.

1.3 Questions

Any questions regarding this Request for Proposal are to be submitted in writing to:

Municipality of Anchorage
Purchasing Department
wwpur@muni.org

For ease of identification please identify the RFP number in the subject line of any correspondence.

Purchasing Office hours of operation are: 8:00 a.m. to 5:00 p.m. local time Monday through Friday, excluding Municipal holidays. All questions must be received prior to the deadline indicated on the RFP cover letter.

1.4 Preparation Costs

The Municipality will not be responsible for proposal preparation costs, nor for costs including attorney fees associated with any (administrative, judicial or otherwise) challenge to the determination of the highest ranked Proposer and/or award of contract and/or rejection of proposal. By submitting a proposal each Proposer agrees to be bound in this respect and waives all claims to such costs and fees.

2.0 RULES GOVERNING COMPETITION

2.1 Examination of Proposals

Proposers should carefully examine the entire RFP and any addenda thereto, and all related materials and data referenced in the RFP. Proposers should become fully aware of the nature of the work and the conditions likely to be encountered in performing the work.

2.2 Proposal Acceptance Period

Award of this proposal is anticipated to be announced within 90 calendar days, although all offers must be complete and irrevocable for 120 calendar days following the submission date.

2.3 Confidentiality

The content of all proposals will be kept confidential until the selection of the Contractor is publicly announced. At that time the selected proposal is open for review. After the award of the Contract, all proposals will then become public information.

2.4 Proposal Format

Proposals are to be prepared in such a way as to provide a straightforward concise delineation of the Proposer's capabilities to satisfy the requirements of this RFP. Emphasis should be concentrated on

- 1) conformance to the RFP instructions;
- 2) responsiveness to the RFP requirements;
- 3) completeness and clarity of content.

2.5 Signature Requirements

All proposals must be signed. Proposals must be signed: by an officer or other agent of a corporate vendor, if authorized to sign contracts on its behalf; a member of a partnership; the owner of a privately-owned vendor; or other agent if properly authorized by a power of attorney or equivalent document. Signature on the "Letter of Transmittal" (See Para. 4.3) will meet this requirement.

Failure to sign the Proposal is grounds for rejection. The name and title of the individual(s) signing the proposal must be clearly shown immediately below the signature.

2.6 Proposal Submission Requirements

2.6.1 **ONE ORIGINAL, single sided unbound, plus five (5) complete copies** of the proposal must be received by the Municipality prior to the date and time specified in the cover letter. Copies may be bound or enclosed in folders/binders.

2.6.2 IN ADDITION to the copies required by paragraph 2.6.1 above, provide a flash drive containing a PDF copy of the complete proposal, including attachments.

2.6.3 All copies of the proposals shall be submitted in a single sealed cover which shall be plainly marked as a Request for Proposal Response with the Number and Title prominently displayed on the outside of the package.

2.6.4 Proposals must be delivered or mailed to:

Physical Address
Municipality of Anchorage
Purchasing Department
632 W. Sixth Avenue, Suite 520
Anchorage, AK 99501

2.7 News Releases

News releases by or on the behalf of any Proposer pertaining to the award resulting from the RFP shall not be made without prior written approval of the Municipal Purchasing Officer.

2.8 Disposition of Proposals

All materials submitted in response to this RFP will become the property of the Municipality of Anchorage. One copy of the submitted material shall be retained for the official files of the Purchasing Department and will become public record after award of the Contract.

2.9 Oral Change/Interpretation

No oral change or interpretation of any provision contained in this RFP is valid whether issued at a pre-proposal conference or otherwise. Written addenda will be issued when changes, clarifications, or amendments to proposal documents are deemed necessary by the Municipality.

2.10 Modification/Withdrawal of Proposals

A Proposer may withdraw a proposal at any time prior to the final submission date by sending written notification of its withdrawal, signed by an agent authorized to represent the agency. The Proposer may thereafter submit a new proposal prior to the final submission date; or submit written modification or addition to a proposal prior to the final submission date. Modifications offered in any other manner, oral or written will not be considered. A final proposal cannot be changed or withdrawn after the submission date, except for modifications requested by the Municipality after the date of receipt and following oral presentations.

2.11 Late Submissions

PROPOSALS NOT RECEIVED BY THE DATE AND TIME AND AT THE LOCATION SPECIFIED IN THE RFP COVER LETTER WILL NOT BE CONSIDERED AND WILL BE RETURNED UNOPENED.

2.12 Rejection of Proposals

The Municipality of Anchorage reserves the right to reject any or all proposals if determined to be in the best interest of the Municipality.

2.13 Equal Employment Opportunity Contract Compliance

2.13.1 Every municipal contract shall include language substantially the same as the following: "The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, marital status, or physical or mental disability. The contractor will comply with all laws concerning the prohibition of discrimination including, but not limited to, Title 5 and Title 7 of the Anchorage Municipal Code."

2.13.2 Every municipal contract shall state, in all solicitations or advertisements for employees to work under the contract, that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, marital status, or physical or mental disability.

2.14 Confidential/Proprietary Information

The content of proposals will be kept confidential until the selection of the Contractor is announced. At that time, the selected proposal is open for review to the competing proposers only (except for information properly identified as being proprietary). After the award of the contract, all submitted proposals shall become public information except for properly identified proprietary information. If a proposer wishes individual pages, which contain actual business, proprietary information to be held confidential, each page must be marked and an explanation furnished of its proprietary nature. In addition to marking individual pages, the Proposal's Cover must also be annotated with the words "THIS PROPOSAL CONTAINS PROPRIETARY INFORMATION". "Confidential and Proprietary" information is not meant to include any information which, at the time of disclosure, is generally known by the public and/or competitors. MOA's ability to treat information submitted as confidential is limited by Anchorage Municipal Code. Proposers concerned with the confidentiality of information submitted should familiarize themselves with the following Anchorage Municipal Code provisions:

- AMC 3.90, Access to Public Records
- AMC 3.90.010, Policy
- AMC 3.90.020, Definitions
- AMC 3.90.030, Information Available to the Public
- AMC 3.90.040, Exemptions for Particular Records

3.0 SCOPE OF WORK

The services to be performed by the selected proposer(s) shall primarily relate to the economic regulation of AWWU by the Regulatory Commission of Alaska (RCA).

Work under this contract consists of preparing and providing expert testimony before the RCA regarding capital structure, cost of equity, and a fair rate of return on equity for Anchorage Water and Wastewater Utility such that AWWU will be able to recover in rates a reasonable rate of return.

The Contractor shall on an assigned basis perform the following:

- A. Provide analysis, recommendations, expert testimony, and exhibits necessary to assist AWWU in the support of a fair rate of return on equity and reasonable overall rate-of-return in water and wastewater revenue requirement or plant replacement surcharge mechanism filings. The Contractor's testimony should address, but is not

limited to, the importance of capital structure, the relationship of capital structure to cost of equity, capital asset pricing model (CAPM) and discounted cash flow (DCF) estimations of cost of equity for AWWU, an analysis of financial risk and business risk, and a recommendation for return on equity and capital structure to be used in the development of the revenue requirements.

- B. Respond to data requests and review testimony prepared by AWWU personnel and Intervenors.
- C. Interact and coordinate studies and testimony with AWWU outside regulatory counsel.
- D. Interact with other external consultants of AWWU to ensure data simultaneously filed with the Regulatory Commission of Alaska is consistently supported.
- E. Prepare for and attend hearing(s) telephonically and in Anchorage, Alaska, as may be required, to defend testimony.
- F. Participate in other matters consistent with area of expertise and practice by mutual consent.

4.0 PROPOSAL AND SUBMISSION REQUIREMENTS

To achieve a uniform review process and obtain the maximum degree of comparability, it is required that the proposals be organized in the manner specified below. Proposals shall not exceed twenty (20) pages in length (excluding letter of transmittal, resumes, title page(s), index/table of contents, required attachments, or dividers). One Page shall be interpreted as one side of a single-spaced, letter size sheet (8-1/2" X 11"). Excess pages will be removed prior to evaluation, which could result in incomplete responses and lower scores.

4.1 Title Page

Show the RFP number and subject, the name of your firm, address, telephone number(s), name of contact person, and date.

4.2 Table of Contents

List the proposal's sections with page numbers. Include the RFP Evaluation Criteria.

4.3 Letter of Transmittal (Limited to two (2) pages).

4.3.1 Briefly state your firm's understanding of the services to be performed and make a positive commitment to provide the services as specified.

4.3.2 List your company's contact for this RFP along with their phone number and email address.

4.3.3 Give the name(s) of the person(s) who are authorized to make representations for your firm, their titles, address, and telephone numbers.

4.3.4 **The letter of transmittal must be signed by a corporate officer or other individual who has the authority to bind the firm.**

4.4 Evaluation Criteria

4.4.1 Contractor's Overall Experience in Utility Regulation and Operations

4.4.1.1 Detail the firm's experience in the same or similar areas of expertise, stability, and its adaptability to providing the required services.

4.4.1.2 Provide at least three (3) Alaska references for which your firm has provided the same or similar services. Include a point of contact, telephone number, and a brief description of the services provided.

4.4.2 Qualifications and Experience of Designated Lead Counsel

Provide detailed information on the qualifications and experience of the Designated Lead Counsel as it relates to the required services, demonstrating capabilities to perform this type of work. Include references with a point of contact, telephone number, and a brief description of the services provided.

4.4.3 Key Contractor Personnel, Subconsultants, and Availability of Support Staff

Identify key project personnel, subconsultants, and availability of support staff expected to provide services on behalf of the firm. Resumes should be included for each of the key contractor individuals and subconsultants referenced.

4.4.4 Contractor Availability

Describe the firm's location where the primary services are to be provided and the ability to respond to and meet in person, telephonically, and virtually with AWWU personnel when required during the performance of the contract.

4.4.5 Absence of Potential Conflicts

AWWU contracts with the Department of Defense for wastewater collection and treatment for Joint Base Elmendorf-Richardson (JBER) (Fort Richardson and Elmendorf Air Force Base (EAFB)). AWWU also provides potable water to the Army National Guard Armory and, on occasion, to Fort Richardson and EAFB.

Doyon Utilities, LLC owns the water and wastewater systems on Fort Richardson including the Army National Guard Armory. In addition, AWWU obtains water from the Ship Creek Dam owned and operated by Doyon Utilities, LLC. AWWU obtains water from Eklutna Lake for which it pays the cost of replacement energy to the owners of the Eklutna Hydroelectric Project (Chugach Electric Association, Inc. and Matanuska Electric Association, Inc.)

Provide information on any professional or ethical conflicts that may interfere with handling these specific contracts, including matters and/or cases where the firm currently represents any individual or entity with interests potentially adverse to the MOA.

4.4.6 Costs

Under separate cover, submit Attachment 2, Cost Worksheet. Attachment 2 will not be considered until after qualitative evaluation has been completed. The formula in Section 5.3 will be used to calculate Quantitative Cost points and will be added to the completed qualitative evaluation points

4.5 Fee Schedule

Under separate cover, a fee schedule for all services that may be required in performance of this work. The fee schedule for the legal services of attorneys, plus paralegals and support staff personnel requested must be made on a fixed hourly basis. List the rates per hour of services, based on the various job classifications assigned. The hourly rates must be guaranteed for the first year of the contract and the billings itemized and capable of audit.

The fee schedule must list all other usual and customary charges or expenses for which the Contractor expects reimbursement including, but not limited to, copies, facsimile transmissions, long distance charges, air courier and/or delivery services, and computer research.

5.0 EVALUATION CRITERIA AND PROCESS

5.1 Evaluation Criteria Weighting

The criteria to consider during evaluations, and the associated point values, are as follows:

Criteria	<u>Points</u>
1. Contractor's Overall Experience in Utility Regulation and Operations	30
2. Qualifications and Experience of Designated Lead Counsel	25
3. Key Contractor Personnel, Subconsultants/Availability of Support Staff	15

4. Contractor Availability	5
5. Absence of Potential Conflicts	15
6. Costs	<u>10</u>
Total Possible Score	100

5.2 Qualitative Evaluation Criterion

Firms will be ranked using the following qualitative rating factors for each RFP criterion:

- 1.0 Outstanding
- .8 Excellent
- .6 Good
- .4 Fair
- .2 Poor
- 0- Unsatisfactory

The rating factor for each criteria category will be multiplied against the points available to determine the total points for that category.

EXAMPLE: If an evaluator decides that the response provided for a criterion that has a maximum of 30 points was “Good,” they will assign a “qualitative rating factor” of 0.6 to that criterion. The qualitative rating factor is then multiplied by the maximum points available (30) for a resultant 18 points.

5.3 Quantitative Evaluation Criterion

The award of the “cost” points will be determined by the calculation shown below. The lowest cost proposal will receive the maximum number of points awarded for the “cost” criteria:

$$\frac{\text{Lowest cost proposal} \times \text{Maximum \# points for category}}{\text{Cost of proposal being scored}}$$

EXAMPLE

Method used to convert Total Cost to Points (30 Points Maximum)

[STEP 1]

List all proposal costs.

Proposer #1	-	\$40,000
Proposer #2	-	\$45,000
Proposer #3	-	\$48,000

[STEP 2]

The RFP awards a maximum of 30% (30 points) of the total of 100 points for fee schedule.

Proposer #1 receives 30 points.

Proposer #1 receives 30 points (the max) because they submitted the lowest cost proposal.

Proposer #2 receives 26.7 points.

$$\frac{\$40,000}{\$45,000} \times 30$$

Proposer #3 receives 25.0 points.

$$\frac{\$40,000}{\$48,000} \times 30$$

5.4 Evaluation Process

A committee of individuals representing the Municipality of Anchorage will perform an evaluation of the proposal(s). The committee will rank the proposal(s) as submitted. The Municipality of Anchorage reserves the right to award a contract solely on the written proposal.

The Municipality also reserves the right to request oral interviews with the highest ranked firms (short list). The purpose of the interviews with the highest ranked firms is to allow expansion upon the written responses. If interviews are conducted, a maximum of three (3) firms will be short-listed. A second score sheet will be used to score those firms interviewed. The final selection will be based on the total of all evaluators' scores achieved on the second rating. The same categories and point ranges will be used during the second evaluation as for the first. The highest ranked Proposer after the second scoring, if performed, may be invited to enter into final negotiations with the Municipality for the purposes of contract award.

6.0 SELECTION PROCESS

The Proposer with the highest total evaluation points may be invited to enter into contract negotiations with the Municipality of Anchorage. If an agreement cannot be reached, the second highest Proposer may be contacted for negotiations. This process may continue until successful negotiations are achieved. However, the Municipality reserves the right to terminate negotiations with any Proposer should it be in the Municipality's best interest. The Municipality of Anchorage reserves the right to reject any and all proposals submitted.

7.0 SAMPLE CONTRACT

All Proposers must carefully read and review the attached Sample Contract (ATTACHMENT 1). The final Contract with the Municipality of Anchorage will be substantially similar to it.

If a Proposer wishes to make changes to the Sample Contract, the proposed changes must be submitted with the proposal. All desired changes must be submitted in a separate document, and must be clear, legible, and conspicuous. The Proposer must also provide the rationale for all proposed changes. No changes will be considered until after the highest scored proposal(s) has been determined.

IF NO CHANGES ARE SUBMITTED WITH THE PROPOSAL, IT IS UNDERSTOOD THAT THE TERMS AND CONDITIONS OF THE SAMPLE CONTRACT HAVE BEEN ACCEPTED.

8.0 ATTACHMENTS

Attachment 1 - Sample Contract

Attachment 2 – Cost Worksheet