

BOARD MEETING DATE: July 11, 2014

AGENDA NO. 17

**PROPOSAL:** Establish Lists of Prequalified Counsel to Represent and Advise the SCAQMD on Legal Matters Related to Environmental Law and Represent and Advise the SCAQMD Hearing Board

**SYNOPSIS:** On April 4, 2014, the Board approved issuance of an RFP to pre-qualify outside counsel having expertise in the California Environmental Quality Act, SCAQMD rulemaking and planning procedures, administrative law and related issues for both the SCAQMD and the SCAQMD Hearing Board. The RFP was issued jointly to limit costs. The evaluation of responding firms has been completed. This action is to establish two lists of prequalified counsel—one to represent the SCAQMD and one to represent the SCAQMD Hearing Board in environmental law areas.

**COMMITTEE:** Administrative, June 13, 2014, Recommended for Approval

**RECOMMENDED ACTIONS:**

1. Approve the firms *Shute Mihaly & Weinberger LLP*, *Stumwasser & Wocher LLP*, *Woodruff Spradlin & Smart, Best, Best & Krieger LLP*, and *Perkins Coie LLP*, as prequalified law firms having expertise in the California Environmental Quality Act, SCAQMD rulemaking and planning procedures, issues relating to statute and rule interpretation, air quality laws, administrative law, representation of government agencies, constitutional issues, the Brown Act, and complex environmental litigation, that General Counsel may use to represent the SCAQMD in future litigation and for advice.
2. Authorize the Chairman of the Board or the Executive Officer, depending on whether the amount exceeds \$75,000, to execute contracts with any of the above firms as the need arises for a total not to exceed \$250,000 annually for up to three years.
3. Approve the firm *Atkinson, Andelson, Loya, Ruud & Romo* as a prequalified law firm having expertise in the above-referenced areas to provide representation and advice as required by the SCAQMD Hearing Board.

4. Authorize the Executive Officer to execute contracts with *Atkinson, Andelson, Loya, Ruud & Romo* to provide representation to the Hearing Board as the need arises for a total not to exceed \$15,000 annually for up to three years.

Barry R. Wallerstein, D.Env.  
Executive Officer

KRW:vmr

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### **Background**

On April 4, 2014, the Board approved issuance of an RFP for an amount up to \$250,000 for the SCAQMD General Counsel and \$15,000 for the SCAQMD Hearing Board to solicit proposals from outside litigation counsel having particular expertise and experience in the California Environmental Quality Act, SCAQMD rulemaking and planning procedures, issues relating to statute and rule interpretation, air quality laws, administrative law, representation of government agencies, constitutional issues, the Brown Act, and complex environmental litigation. The RFP was issued jointly to limit costs. General Counsel and the AQMD Hearing Board will utilize different firms to avoid conflicts of interest. In the past, the SCAQMD and the SCAQMD Hearing Board have faced, and likely will face in the future, litigation and other matters requiring such specialized expertise. A rapid response is needed in such situations, and it is not possible to go through the RFP process as new cases arise. Establishing prequalified lists ensures that SCAQMD and SCAQMD Hearing Board can quickly select counsel for representation as needed. It is also important to have a sufficient variety of firms (large as well as small) to be able to handle the variant of types of lawsuits involving SCAQMD.

### **Outreach**

In accordance with SCAQMD's Procurement Policy and Procedure, a public notice advertising the RFP/RFQ and inviting bids was published in the Los Angeles Times, the Orange County Register, the San Bernardino Sun, and Riverside County Press Enterprise newspapers to leverage the most cost-effective method of outreach to the South Coast Basin. Also, potential bidders were notified by sending notification to various individual law firms and minority bar associations.

Additionally, potential bidders may have been notified utilizing SCAQMD's own electronic listing of certified minority vendors. Notice of the RFP/RFQ has been e-mailed to the Black and Latino Legislative Caucuses and various minority chambers of commerce and business associations, and placed on the Internet at SCAQMD's website (<http://www.aqmd.gov>). Information is also available on SCAQMD's bidder's 24-hour telephone message line (909) 396-2724.

## **Evaluation**

Bid responses for the Environmental Law RFP were received from eight (8) law firms. Of the eight bid responses, only one qualified bid response addressed the needs of the Hearing Board. A summary of the responses is provided in Attachment A. An evaluation panel was convened to evaluate proposals for the General Counsel and one to evaluate the proposals for the Hearing Board. The Hearing Board requires different counsel than the firms hired by SCAQMD because its interest may not coincide with SCAQMD's. The SCAQMD panel consisted of three SCAQMD employees: three General Counsel attorneys; two male and one female; one Caucasian and two Asian. The Hearing Board panel consisted of one Hearing Board member—a Caucasian female.

## **Proposal**

Establish two lists, one for the SCAQMD and one for the SCAQMD Hearing Board, valid from July 11, 2014, through July 31, 2017, of prequalified outside counsel for advice and representation in areas related to environmental law, governmental law, and constitutional issues.

### **For the SCAQMD:**

Shute Mihaly & Weinberger LLP  
Stumwasser & Woocher LLP  
Woodruff Spradlin & Smart  
Best, Best & Krieger LLP  
Perkins Coie LLP

### **For the SCAQMD Hearing Board:**

Atkinson, Andelson, Loya, Ruud & Romo

## **Resource Impacts**

The recommended total annual budget for environmental outside counsel is \$250,000 for General Counsel and \$15,000 for the SCAQMD Hearing Board, all of which may be allocated to one or more selected contractors as the need arises based on future litigation, the availability of counsel, and the needs of the SCAQMD and SCAQMD Hearing Board. Selection may also be made for occasional assignments in subject areas of the firms' expertise that do not involve litigation.

## **Attachment**

Summary of Responses to RFP #2014-21

**ATTACHMENT A**

**RFP #2014-21**  
**(Environmental Law)**

BIDDER	LOCAL FIRM	BID AMOUNT per hour	TOTAL POINTS
Shute Mihaly & Weinberger	No	\$350	106*
Strumwasser & Woocher LLP	Yes	\$445	99*
Woodruff Spradlin & Smart	Yes	\$400	95
Best, Best & Krieger LLP	Yes	\$330	93
Perkins Coie LLP	No	\$550	88

\* Includes an additional 10 points for Small Business Certification submitted with Bid Proposal, pursuant to SCAQMD Procurement Policy & Procedure, Section VIII.D.2.b.

**RFP #2014-21**  
**(Hearing Board Issues)**

BIDDER	LOCAL FIRM	BID AMOUNT per hour	TOTAL POINTS
Atkinson, Andelson, Loya, Ruud & Romo	Yes	\$295	84

\* Includes an additional 10 points for Small Business Certification submitted with Bid Proposal, pursuant to SCAQMD Procurement Policy & Procedure, Section VIII.D.2.b.