



Request for Proposal: Disability Counsel

Request for Proposal Issued: January 3, 2024

All questions must be submitted in writing by: January 12, 2024
Proposals due: January 26, 2024, by 5 P.M. PST
Questions and proposals sent to: San Diego County Employees Retirement Association
 Mary Ball, Chief of Operations
 Email: mball@sdcera.org

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1. Purpose

The San Diego County Employees Retirement Association (SDCERA) is seeking proposals from qualified law firms to provide legal services related to SDCERA's disability retirement hearing process. SDCERA may select more than one firm. SDCERA administers disability retirement benefits in accordance with the County Employees Retirement Law of 1937, Board of Retirement policy, and SDCERA Disability Administrative Hearing Rules (Rules). SDCERA's Disability Unit consists of a Disability Unit Manager who reports to the Chief Legal Officer and two Disability Specialists. In circumstances where there is a conflict in evidence related to a disability retirement application, the applicant has the option of having their application considered by a hearing officer in a hearing de novo (HDN) process. The hearing officer's recommended decision is then considered by the Board of Retirement (Board), which approves or denies all disability applications. Approximately 10 applications are referred to an HDN annually. The successful firm(s) will represent SDCERA's disability staff throughout the HDN process up to and including the determination of the Board and any subsequent litigation. Work will be directed by SDCERA's Chief Legal Officer and Disability Unit Manager.

2. Scope of Services

Disability Counsel will represent SDCERA staff in all aspects of the HDN process in accordance with the rules including:

- A. Reviewing disability applications referred by staff and determining what evidence is needed to successfully advocate for the staff position during the HDN process.
- B. Eliciting testimony via deposition, reviewing evidence, preparing all HDN papers, and representing staff during the HDN.
- C. Reviewing the hearing officer's recommended decision and finding of facts to determine if SDCERA should raise objections to the Board and answering any objections raised by the applicant.
- D. Representing staff before the Board and any subsequent litigation.
- E. Assisting staff in the application of California disability law to factual scenarios as requested.

3. Timeline

Key dates for this solicitation are:

Request for Proposal (RFP) Issued	January 3, 2024
Questions Due Date	January 12, 2024
SDCERA Responses	January 17, 2024
Proposal Submission Due Date	January 26, 2024 5:00 P.M. PST
SDCERA Proposal Evaluation and Interviews	January 29-February 2, 2024
Selection	February 5-7, 2024

4. Official RFP Notices/Addenda

All requirements are specified in this Request for Proposal (RFP). Any changes to the requirements will be posted as an addendum to the RFP on the SDCERA website. Firms are solely responsible for monitoring the website for, and adhering to, any RFP addenda.

SDCERA reserves the right to withdraw this RFP at any time without prior notice and to reject any and all responses to this RFP. The rejection of any or all proposals shall not render SDCERA liable for costs or damages.

5. Prohibited Communications

Except as noted below regarding questions or clarifications related to the RFP, interested firms may not contact members of the Board or SDCERA staff until a selection has been made and contract(s) awarded. Firms may be disqualified for engaging in prohibited communications.

6. Submission of Proposals

1. All costs and expenses associated with responding to this RFP are at the sole expense of the proposer. SDCERA is not obligated to the proposers in any manner and will not reimburse or pay any cost incurred by proposers.
2. Proposals must include a cover letter indicating the mailing address of the office submitting the proposal, the name of the individual representing the firm as the primary contact person for the proposal, and the telephone number and email address of the primary contact person.
3. Proposals must be submitted in PDF format via electronic mail no later than 5:00 P.M. Pacific time on January 26, 2024. Proposals must be emailed to Mary Ball, Chief of Operations: mball@sdcera.org.
4. All submitted proposals are subject to the California Public Records Act (Act) and will be open to public inspection and duplication unless an exception to the Act applies. If a request is made for materials submitted pursuant to this RFP, SDCERA will determine, in its sole discretion, whether the materials are subject to public disclosure. Proposals may also appear in publicly posted agenda materials for Board meetings held in accordance with the Ralph M. Brown Act.

7. Minimum Qualifications

The proposer must meet the Minimum Qualifications. Failure to do so may result in rejection of the proposal.

1. The proposer must be a law firm or sole practitioner licensed to practice law in the State of California.
2. The proposer must have substantial experience handling administrative claims and litigation related to disability applications under the County Employees Retirement Law of 1937 (CERL) or similar legislation.

8. Required Information

In addition to the Minimum Qualifications above, the proposer must provide the information below:

A. Personnel Information and Legal Experience

1. For the principal attorney and any other attorneys who may work on this engagement, attach as Exhibit A, a curriculum vitae, short biography including educational background, relevant experience, and the expected services the attorney will provide to SDCERA. Indicate each attorneys' state(s) of licensure and associated bar number(s) and include a statement that each attorney is currently in good standing with the California State Bar. Relevant legal experience is as follows:
 - a. CERL or other California law (e.g., the Public Employees Retirement Law) regarding retirement disability benefits and the application for such benefits.
 - b. Administrative processes and procedures related to California public employee pension benefits, particularly with respect to disability benefits.
 - c. Workers compensation claims and case law as it relates to disability retirement claims.
 - d. Litigation experience related to disability retirement and/or workers compensation.

For the experience described above, provide names of clients, dates of service, and matters handled to demonstrate the nature and extent of the legal experience.

2. Attach as Exhibit B, a reference list containing the client name, address, telephone number and contact person for three (3) current clients to serve as references for your firm, preferably public pension plans or public agencies. By providing this information, you consent to and hereby release SDCERA from any liability that may arise from contacting your references, communicating with them about your prior engagements, and soliciting an opinion regarding the work performed for them.
3. Identify any potential or actual conflict of interest you have in providing services to SDCERA. Also, state whether you have ever represented SDCERA, any Participating Employer (County of San Diego, San Diego Superior Court, San Diego Local Agency Formation Commission, San Dieguito River Valley Regional Park), or any employee group related to these entities. If so, state the name of each such client, contact information, and the nature and time frame of your representation. In providing this

information, you consent to and release SDCERA from liability regarding contacting the client(s) and communicating with them about your current or prior engagement(s) and conflict(s). Also, please describe how you intend to resolve any actual or potential conflict of interest.

4. Identify any past (within the last five years), pending or threatened litigation (e.g., malpractice) or administrative or state ethics board or similar proceedings to which you, your firm, or any of the attorneys identified in the proposal are or were a party to related to performing legal services.
5. Identify all public sector clients who have terminated their working relationship with you in the past five years and a brief statement of the reasons for doing so. Provide each client's contact information. In providing this information, you consent to and release SDCERA from liability regarding contacting your past clients and communicating with them about their opinions regarding your work performed and reason for termination.
6. Use of the SDCERA Outside Counsel Contract Template (Appendix A) is required upon contract award. List any exceptions to any of the contract provisions and provide any documents SDCERA will be required to acknowledge or sign as part of any negotiated contract.

B. Fee Proposal

Attach as Exhibit C your fee proposal. Fee proposals must contain the following:

1. State that you have read and agree to abide by the SDCERA Legal Billing Guidelines in SDCERA's Outside Counsel Template, Appendix A to this RFP. Note any exceptions.
2. For each attorney identified in your proposal, list that attorney's normal hourly rate and the hourly rate you propose to charge SDCERA for the next five years.
3. For each applicable category of billable, non-attorney personnel who will work on the SDCERA account, list the normal hourly rate and the hourly rate that you propose to charge to SDCERA for the next five years.
4. Your rates should be inclusive of all costs (e.g., research fees, copying fees).
5. State that the billing rates in your proposal will be fixed for the five-year term of the agreement or whether escalators apply.
6. State any special consideration with respect to billing or payment of fees and expenses your firm offers that may differentiate your proposal and makes your firm's services more cost effective to SDCERA.
7. SDCERA expects the lowest rate charged by your firm for its governmental and non-profit clients. If for any reason your firm is unwilling or unable to charge the lowest rate, please explain why.

C. Insurance Requirements

The selected firm shall provide evidence of Professional Liability insurance with contractual liability coverage covering the proposer's liability arising from errors and omissions made directly or indirectly during the duration of the contract. The selected firm shall provide coverage for the total limits actually arranged by the selected firm but not less than \$1 million combined single limit. Please review Appendix A for all insurance requirements.

9. Criteria

Proposals will be evaluated on the following criteria:

1. Experience handling administrative appeals and litigation related to disability applications under the County Employees Retirement Law of 1937 or similar legislation.
2. Quality and depth of expertise in disability matters or workers compensation claims.
3. Anticipated cost of services, including hourly rates, discounts and cost-effectiveness.
4. Commitment of time and resources to SDCERA.
5. Information provided by references.
6. Written and oral communication skills.
7. Overall organization, completeness, and quality of proposal, including cohesiveness, conciseness, and clarity of response.

10. Selection Process

SDCERA staff will review all proposals to determine timeliness and completeness. Any proposal that does not address all requirements or is not submitted on time may be rejected, at SDCERA's sole discretion. Staff will evaluate all proposals based on the criteria stated above.

During the evaluation process, respondents may be requested to provide additional information or clarify the contents of their proposal. Other than information requested by SDCERA, alterations to proposals or new information provided after the filing date will not be accepted. SDCERA reserves the right to negotiate pricing where it is determined that the low bid is not the strongest overall proposal.

From the issue date of this RFP until successful proposer(s) are selected and the selection is announced, respondents are not allowed to communicate, for any reason, with SDCERA staff or trustees regarding this procurement, except through the Procurement Administrator.

11. General

SDCERA reserves the right, at its sole discretion and without giving reasons or notice, at any time and in any respect, to alter these procedures, to change and alter any and all criteria, to terminate discussions, to accept or reject any proposal, in whole or in part, to negotiate modifications or revisions to a proposal and to negotiate with any one or more respondents to the RFP.

This RFP is not an offer but a request to receive a proposal. SDCERA will consider a proposal as an offer to develop an agreement based upon the contents of the proposal. Respondents agree that the contents of their proposals are valid for 180 days from the date of submission. SDCERA will not be liable for any cost incurred in the preparation of a proposal and will not reimburse any respondents for their submission. Expenses related to the production of a proposal are the sole responsibility of the respondent.

Any proposal submitted will become the property of SDCERA. SDCERA reserves the right to retain all proposals submitted, and to use any information contained in a proposal except as otherwise prohibited by law.

Respondents who submit proposals in advance of the deadline may withdraw, modify, and resubmit proposals at any time prior to the deadline for submitting proposals. Respondents must notify the Procurement Administrator in writing if they wish to withdraw their proposals.

Appendices

[Appendix A: SDCERA Outside Counsel Contract Template](#)