



CITY OF OAKLAND | Community Police Review Agency (CPRA)
250 FRANK H. OGAWA PLAZA, SUITE 6302 • OAKLAND, CA 94612

**REQUEST FOR QUALIFICATIONS
FOR LEGAL SERVICES:**

**Attorney(s) for the
Oakland Community Police Review Agency (CPRA)**

Please respond by February 21, 2022

(~90 days from issuance)

Contact Person: John Alden
Phone Number: 510.238.7401
E-mail Address: JAlden@oaklandca.gov

Issued: Nov 15, 2021

TABLE OF CONTENTS

<u>INTRODUCTION & SCOPE OF SERVICE</u>	<u>1</u>
<u>FIRM DATA & INFORMATION</u>	<u>2</u>
<u>FEE STRUCTURE</u>	<u>3</u>
<u>RESPONDENT'S PERSONNEL</u>	<u>3</u>
<u>CONFIDENTIALITY OF PROPOSAL & INFORMATION WAIVER</u>	<u>4</u>
<u>CPRA'S RESERVATION OF RIGHTS</u>	<u>4</u>
<u>CONFLICTS OF INTEREST</u>	<u>4</u>
<u>STRATEGY & BUDGET</u>	<u>5</u>
<u>LITIGATION</u>	<u>5</u>
<u>COMMUNICATION</u>	<u>5</u>
<u>REVIEW OF SUBMISSIONS</u>	<u>6</u>
<u>STATEMENT OF INTEREST & QUALIFICATIONS</u>	<u>6</u>

INTRODUCTION & SCOPE OF SERVICE

In November 2016, Oakland voters overwhelmingly passed Measure LL, an amendment to the Oakland City Charter codified in Charter section 604, (hereinafter Section 604) which established the Oakland Police Commission (hereinafter “Commission”) consisting of seven regular and two alternate members, and which established the Community Police Review Agency (“CPRA”). In November 2020, Oakland voters passed Measure S1, an amendment to Section 604, which established an Office of Inspector General (“OIG”), expanded the powers and duties of the Commission, and provided for the CPRA to retain independent legal counsel.

The CPRA conducts investigations into public complaints of misconduct against Oakland Police Department (“OPD”) sworn employees. The CPRA investigates all public complaints against OPD officers involving use of force, in-custody deaths, profiling, untruthfulness, police response to public assemblies and First Amendment activities, and other possible misconduct as directed by the Commission. The CPRA may also investigate other types of public complaints as resources permit. These investigations serve as the predicate for decisions by the City of Oakland as to which officers to discipline, and what discipline to impose.

The CPRA wishes to retain legal counsel (“CPRA Attorney(s)”) to advise the CPRA on matters within the scope of its powers and duties as enumerated in Section 604 and in Oakland Municipal Code Chapters 2.45 and 2.46; provide general training and also case-specific advice to CPRA investigators as needed in their investigations of police officer misconduct; litigate a portion of the arbitration proceedings that stem from those investigations; and advise on other matters as assigned.

The CPRA requests detailed information regarding the qualifications of attorneys or law firms interested in providing legal services to the CPRA. Selection of CPRA Attorney(s) will be based on the quality of their work, commitment to controlling costs, adherence to budgets, and demonstrated commitment and efforts to provide equal employment opportunity, including but not limited to efforts to provide equity and inclusion to persons of color, women, persons with disabilities, members of the LGBTQ+ community, and all individuals, regardless of protected class status. We encourage innovative approaches to billing proposals, such as fixed rate per project, blended hourly rate per project, discounted rates, contingency fees, or some other methodology. When we select a firm to represent the CPRA, we decide which attorneys will be working on our matters, and we require advance approval of any changes in assignments.

Any firm retained by the CPRA must enter into the City of Oakland’s standard Professional Services Agreement (PSA), and complete and provide the following schedules and documentation.

- Combined Schedules: C-1: Declaration of Compliance with the American Disabilities Act, Schedule P: Nuclear Free Zone Disclosure, Schedule U: Compliance Commitment Agreement, Schedule V: Affidavit of Non-Disciplinary or Investigatory Action;
- Schedule B-2: Arizona Resolution
- Schedule D: Ownership Ethnicity and Gender Questionnaire;
- Schedule E: Project Consultant Team;
- Schedule N: Declaration of Compliance for the City’s Living Wage Ordinance;
- Schedule N-1: Equal Benefits Declaration of Nondiscrimination;
- Schedule O: Contractor Acknowledgment of City of Oakland Campaign Contribution Limits;

- Proof of Insurance on the ACORD form showing the types and amounts of and insurance coverage required in Schedule Q, Insurance Requirements; and
- Current Oakland Business Tax certificate or application in progress.

In addition to the PSA, the selected firm will be required to enter into a Scope of Service/Retention Agreement which includes a written work plan or case handling plan, a capped “not to exceed” amount in accordance with Section 604(i) and the names of the individuals in the law firm assigned to work on the matter and their hourly rates. Separate scopes may be required for specific projects, at the discretion of the CPRA. The Scope of Service/Retention Agreement becomes a part of the overall agreement and cannot be modified without the advance written approval of the CPRA. The CPRA will not approve invoices that are in excess of budget, absent prior approval. All invoices must set forth the billing amount, the cap, and the amount remaining on the contract. The documents listed above are included as an attachment.

The selected firm must be current on the payment of Oakland business taxes. This tax is based on income from work the firm performs in Oakland. The selected firm must possess or obtain an Oakland Business Tax Certificate regardless of where the firm is located. The lead attorney(s) on this bid must possess a current, valid license to practice law in the State of California.

No current or former sworn employee of the Oakland Police Department is eligible for this contract. Nor is any current official, employee, or representative of an employee association representing sworn police officers.

FIRM DATA & INFORMATION

Respondents should provide the following background information for each attorney in the firm who wishes to be qualified to provide advice or assist in providing advice to the CPRA. Please provide two copies of the responses and please identify the partner or shareholder who would be in charge of the representation. For purposes of providing background information, “peace officers” include all law enforcement officers, including but not limited to police officers, deputy sheriffs, highway patrol officers, and corrections officers.

1. Are you currently a member of the California State Bar? If so, please provide your Bar number.
2. Describe your professional experience in the areas of oversight and policy development for a public safety agency.
3. Describe your professional experience in the area of public employee misconduct investigations and discipline, including experience related to peace officers.
4. Describe your professional experience in the areas of employment law and public sector labor relations.
5. Describe your professional experience in civilian oversight of law enforcement.
6. Have you ever represented a client in a claim or lawsuit against a peace-officer department or agency? If so, please describe the timing and nature of the representation(s).
7. Have you ever represented a peace-officer department or agency in a lawsuit? If so, please describe the timing and nature of the representation(s).

8. Have you ever represented a peace officer in a civil or criminal matter for alleged on-the-job misconduct? If so, please describe the timing and nature of the representation(s).
9. Have you ever represented a peace officer or a peace officer employee association in a discipline matter or collective bargaining dispute? If so, please describe the timing and nature of the representation(s).
10. Are any of the attorneys serving as principals in this bid current or former sworn employees of the Oakland Police Department?
11. Are any of the attorneys serving as principals in this bid a current official, employee, counsel to, or representative of an employee association representing sworn police officers?

In addition, Respondents should include the following information:

1. Your office's availability to work as counsel to the CPRA, including number of hours per month the lead attorney can personally commit, any regular time constraints or competing commitments, and availability of associate attorneys to advise the CPRA in the absence of the lead attorney.
2. Statistical information about firm demographics, and an explanation of the firm's diversity, equity, and inclusion policy.
3. A description of the nature and scope of specific projects handled by each qualified attorney, or significant matters that may be relevant to representation of the CPRA in such disputes.
4. An agreement not to engage in litigation against the CPRA or represent clients that have interests that are directly adverse to the CPRA without first informing the CPRA and obtaining written permission from the CPRA to do so.
5. A firm resume or brochure.

FEE STRUCTURE

Respondents should provide hourly rates for each attorney seeking qualification, as well as paralegals and other professionals who will assist in the representation.

The quoted hourly rate should include all salary and compensation, and all overhead expenses, profits and other employee costs, including but not limited to clerical and word processing expenses. Respondents should list all expenses they propose to bill and the basis for such expenses. The contract will provide for usual and customary reimbursement of third-party costs based on actual expenses. The CPRA does not reimburse for additional overhead on third-party costs.

If the firm proposes to adjust rates during the course of representation, please describe the method for such adjustment. Respondents should include alternatives to hourly billing, including fixed price representation and contingency fee arrangements.

RESPONDENT'S PERSONNEL

The CPRA intends to reserve the right to designate a specific attorney(s) in a contracting law firm to work on a specific case or matter as lead counsel or as associate lead counsel for the services rendered pursuant to any contract, and further intends to reserve the right to terminate the contract if the lead attorney leaves employment of the firm.

Before the CPRA contracts with CPRA Attorney(s), the CPRA expects a commitment with respect to the attorneys who will be representing the CPRA. If subsequently it becomes necessary to substitute an attorney or add additional attorneys, CPRA Attorney(s) must receive prior approval before doing so. Significant roles shall not be given to other attorneys without the CPRA's prior concurrence.

While the CPRA expects senior attorneys to perform those tasks that require substantial experience, the CPRA expects that CPRA Attorney(s) will attempt to minimize legal expenses by relying on junior attorneys and paralegals for less demanding tasks.

CONFIDENTIALITY OF PROPOSAL INFORMATION WAIVER

Respondents specifically and categorically agree that, as a condition for the opening and review of their responsive submittals, the information relating to fees and fee structure submitted by every other respondent is confidential and proprietary information insofar as such Respondent is concerned.

Respondents are further advised that upon execution of an agreement, all the terms and conditions, including fees and fee structures, forming part of such agreement shall become a public record of the CPRA and be subject to full disclosure; and each Respondent waives any right to object to any such disclosure.

CPRA'S RESERVATION OF RIGHTS

This Request for Qualifications does not constitute a commitment by the CPRA to enter into any agreement or contract, or to pay any costs associated with the preparation of responses, submittals or other documents or any related-work by any Respondent. The CPRA reserves the right to enter into agreements for legal services with persons or firms who do not respond. The CPRA further reserves the right to waive responses to any part of this request if, in its sole judgment, it determines that it is in the best interests of the CPRA to do so. The CPRA may require any Respondent to participate in negotiations and to submit such other information or documentation as it may deem necessary as conditions of awarding a contract. The CPRA reserves the right to vary or waive requirements for different Respondents as shall fit the CPRA's needs.

CONFLICTS OF INTEREST

We expect that the CPRA will be notified immediately if CPRA Attorney(s) become aware of an actual or potential conflict. The CPRA recognizes that on occasion CPRA Attorney(s) will be asked to represent clients whose interests are inconsistent with the CPRA's, and that CPRA Attorney(s) may even be asked to represent parties whose interests are in direct conflict with the CPRA's. The CPRA will generally waive conflicts when no issue of significant CPRA policy or a specific CPRA investigation is involved. Whenever the CPRA waives a conflict, the waiver will be conditioned on written agreement by the other client that it will not object to CPRA Attorney(s) representing the CPRA in any pending or future matter. The CPRA generally will **not** waive a conflict if the matter is related to a matter in which CPRA Attorney(s) have represented the CPRA, or if your firm has access to relevant confidential information of the CPRA or of the City of Oakland, or if your representation of the other client involves issues of significant CPRA policy or a specific CPRA investigation.

STRATEGY & BUDGET

For every new arbitration matter, CPRA Attorney(s) are expected to prepare a strategy and a budget. The budget should estimate total fees and expenses to see the matter to its conclusion. If CPRA Attorney(s) anticipate a change in the budget, CPRA Attorney(s) must discuss such anticipated changes with the CPRA before the work is done or the expense is incurred. The CPRA will not approve invoices that are in excess of budget absent prior approval.

Litigation strategy shall identify alternate methods of disposing of the case, including ADR (Alternative Dispute Resolution) and settlement. An outline should be made of the proposed course of litigation, including dispositive pre-hearing motions, the scope of discovery and the arbitration strategy. If it appears that a case will go to arbitration, an estimate of costs should be sent to the CPRA no later than the close of discovery, if possible. The level of detail of all plans (litigation and otherwise) will be dictated by the significance of the matter.

LITIGATION

CPRA Attorney(s) shall represent the CPRA as described in Section 604 of the City Charter. Litigation that falls outside the scope of Section 604 is handled by the Office of the City Attorney. Advance approval from the CPRA is required before:

- Preparing pretrial or pre-hearing motions;
- Preparing a cross-complaint which adds new parties to the action;
- Selecting and retaining expert witnesses;
- Preparing motions during trial or arbitration, post-trial motions or appeals;
- Undertaking any unusual activity, such as preparing a major research memorandum;
- Agreeing to alternative dispute resolution processes;
- Agreeing to settlement.

CPRA Attorney(s) must consult with the CPRA concerning the strategy for taking depositions and other discovery. The deposition plan should include a brief explanation of the proposed deponent's location, the deponent's involvement in the matter, and the purpose of the deposition.

CPRA Attorney(s) must exercise restraint in discovery and legal research conducted in routine small matters. We will not continue use of a firm that allows costs to approach - much less exceed- the CPRA's exposure or potential recovery.

CPRA Attorney(s) must evaluate ADR as a substitute for full-scale litigation. The CPRA expects that ADR techniques will be given active consideration from the commencement of litigation. The CPRA does not view ADR as an alternative to be considered only when trial or arbitration is imminent and after months or years of costly discovery and pretrial or prehearing battles.

COMMUNICATION

CPRA Attorney(s) must contact the CPRA if any issues arise that are not covered by the Scope of Service/Retention Agreement, or if CPRA Attorney(s) wish to deviate from any of the stated terms of the Scope of Service/Retention Agreement.

REVIEW OF SUBMISSIONS

The CPRA will select a firm to serve as counsel based on its evaluation of responses to this Request for Qualifications. The CPRA will evaluate responses in the areas of Scope of Service / Scope of Representation, Firm Data and Information and Fee Structure.

STATEMENT OF INTEREST & QUALIFICATIONS (SOQ)

Submit Proposal to:

City of Oakland, CPRA, c/o CPRA Executive Director John Alden

2 copies of the SOQ must be enclosed in a sealed package and marked as follows:

Confidential Documents / Attn: City of Oakland, CPRA

c/o CPRA Executive Director John Alden

250 Frank H. Ogawa Plaza, 6th Floor, Oakland, CA 94612

For questions concerning this SOQ contact

CPRA Executive Director John Alden

JAlden@oaklandca.gov