



Memorandum

**TO: Boards of Administration for the
Federated Retirement System (System)
and the Police and Fire Department
Retirement Plan (Plan)**

FROM: John Flynn

SUBJECT: Legal Services RFP

DATE: October 7, 2024

Approved

Date 10/9/2024

RECOMMENDATION

Discussion and action on creating a Joint Ad hoc Committee with the Police and Fire Board for procuring legal services for the Office of Retirement Services (ORS) and the System / Plan within the proposed timeline.

1. Recommend establishing a Joint Ad Hoc Committee (JAC) of two board members from each board to participate in the procurement process for all five legal services used by the ORS and the Boards. This JAC would continue until the selected vendors execute all contracts.
2. Recommend the JAC and Boards' participation in the Request for Proposal (RFP) process for these legal services, which will target to complete actions within the proposed schedule defined in the "Proposed Ownership and Schedule" table.
3. Recommend procuring separate services for general counsel and fiduciary counsel. This will provide greater flexibility regarding organizational capacity for internal and external counsel.

The JAC would participate with staff in the development of one RFP for all five legal services used by the boards:

- General Counsel
- Fiduciary Counsel
- Investment Counsel
- Tax Counsel
- Disability & Domestic Relations Orders (DRO) Counsel

BACKGROUND

History of Legal Contracts

In late 2011, a RFP was issued for legal services by the City of San José Attorney's Office (CAO). The CAO made recommendations to the Board after the RFP responses were evaluated. The Board selected

Reed Smith as their general and fiduciary counsel, as recommended by the CAO. The Board also accepted the City Attorney’s recommendation to contract with Hanson Bridgett if a conflict arises for Reed Smith.

As a result of the RFP issued in late 2011, the CAO entered into contracts with the following terms, including the number of amendments that were executed on the contract:

Firm	Legal Service	# Amendments	Term Ended	Maximum Contract Amount
Reed Smith	Fiduciary / Investment	Four	June 2015	\$1,250,000
Hanson Bridgett	Investment	Four	June 2015	\$700,000
Ice Miller	Tax	Two	June 2015	\$750,000
Saltzman & Johnson	Disability & Domestic Relations Orders (DRO)	Three	June 2015	\$500,000

In December 2014, Measure G, which provided authority to the Board to contract with attorneys for services related to the retirement plans’ administration, became effective. Subsequently, the Board entered into new contracts when they expired in June 2015 with the following terms: the table includes the number of amendments that were executed on the contract:

Firm	Legal Service(s) Provided	# of Amendments	Term: 5 Years Ending	Maximum Contract Amount
Reed Smith	Fiduciary / General	Two	June 2020	\$1,500,000
Hanson Bridgett	Investment	One	June 2020	\$650,000
Ice Miller	Tax	One	June 2020	\$100,000
Saltzman & Johnson	Disability & Domestic Relations Orders (DRO)	One	June 2020	\$500,000

In February 2020, staff issued an RFP for legal services as all legal contracts were set to expire on June 30, 2020. The RFP included the following legal services:

- Fiduciary and general counsel services
- Tax services
- DRO and disability application review
- Investment services.

Five RFP responses were received, but only the following vendors were considered:

Services	Fiduciary and General Counsel	Tax Services	DRO / Disability Services	Investment Services
Reed Smith	X	X		X
Hanson Bridgett				X
Ice Miller		X		X
Saltzman & Johnson			X	

An RFP response was received from another firm for investment services; however, their proposal was limited to securities litigation only, which was outside the scope of services for the RFP, and therefore, their response was not considered.

The 2020 RFP evaluation team consisted of one staff member from the Investments, Accounting, and Benefits Divisions.

Summary of Firm Retention Information

- Reed Smith was hired in March 2012 to provide fiduciary and general counsel services in addition to investment services. Tax services were added in 2020.
- Hanson Bridgett was hired in June 2008 to provide investment-related legal services.
- Ice Miller was selected as the Board's tax counsel in May 2010. Investment Services were added in 2020.
- Saltzman and Johnson served as the conflicts counsel for the Board from 1993 through June 2012, plus DRO and Disability services since March 2012.

Summary of RFP responses received in 2020:

Fiduciary and General Counsel Services

Reed Smith was the only firm that responded to this service. They have been the Plan's current provider of fiduciary and general counsel services since March 2012, Staff reported being happy with their level of service.

Investment Legal Services

Hanson Bridgett, Ice Miller, and Reed Smith all responded to the investment services section of the RFP. Hanson Bridgett and Reed Smith are currently the Plan's provider, Staff reported being satisfied with their level of service.

Staff believed it was in the best interests of the plan to have many options to choose from in deciding which firm would be most efficient and effective in a situation. Each of the three firms had experience negotiating investment contracts for public pension clients. The variation in specific strategies and clients means that one might be better suited than the others for a particular investment under consideration.

Tax Legal Services

Two bids were received for tax legal services: Ice Miller and Reed Smith. Ice Miller has been the Plan's current provider of tax services since May 2010. Staff reported being happy with their level of service and very responsive to their needs. Their proposal only covered federal law tax advice.

Although Reed Smith had not provided tax services to the Plan before, staff determined that Reed Smith's knowledge and involvement with the Plan provided a good foundation for them to provide tax legal services to the Plan. They have extensive experience advising public employee retirement plans on tax issues and are licensed to practice in California. Having them as an additional option was seen as

a plus as Ice Miller only bid on federal tax services, and Reed Smith had not limited their 2020 RFP response to federal tax services only.

Domestic Relations Order (DRO) and Disability Legal Services

Saltzman and Johnson was the only firm that responded to this service. They have been the Plan’s current provider of DRO and disability legal services since March 2012, and Staff has been happy with their level of service.

2020 legal services RFP Staff Recommendation:

Following the 2020 RFP, Staff recommended the Board execute an agreement for a term of 60 months with the following firms for each of the services they were currently providing, as shown below:

Firm	Legal Service	Additional Service(s)	Term Ending	Maximum Contract Amount
Reed Smith	Fiduciary / General	Tax, Investment	June 2025	\$1,000,000
Hanson Bridgett	Investment	N/A	June 2025	\$600,000
Ice Miller	Tax	Investment	June 2025	\$150,000
Saltzman & Johnson	Disability & Domestic Relations Orders (DRO)	N/A	June 2025	\$500,000

In addition, Staff recommended adding the additional services that Reed Smith and Ice Miller proposed in their respective RFP responses. This allowed for more resources for Staff and provided efficiencies and possible cost effectiveness.

The following are the current contracts with all the legal firms.

Consultants	Started	Type of Service	Expiration Date	Not to Exceed Amount
Hanson Bridgett LLP	June 2008	Investment legal	June 30, 2025	\$900,000
Ice Miller LLP	May 2010	Tax	June 30, 2025	\$150,000
Reed Smith LLP	March 2012	General, fiduciary, and investment	June 30, 2025	\$1,600,000
Saltzman and Johnson Law Corp	March 2012 – conflicts counsel from 1993 to June 2012	Disability and Domestic Relations Order (DRO)	June 30, 2025	\$750,000

ANALYSIS

All legal service contracts expire in June 2025. Therefore, Staff is initiating the procurement process so that new agreements for legal services can be in place by that date and services will not be disrupted.

The Boards make the final appointment for legal services per the Procurement and Contracting of Goods and Services. However, the boards can choose to have the following steps completed by either Staff and/or a Joint Ad Hoc Committee: identify candidates, evaluate finalists, and recommend appointment.

The chart below outlines the steps in the procurement process and timeline and is aligned with current and proposed Procurement policies. The “Staff” RFP evaluation team will include staff from the Investments, Accounting, and Benefits Divisions and the Deputy Director.

Proposed Ownership and Schedule

Who	What	Timeline
Staff	Draft one RFP covering all legal services	11/15/2024
Staff and JAC	Review and Finalized RFP	By 12/06/2024
Staff	Issue RFP – post to Biddingo, the City’s procurement platform	12/09/2024
Staff	Proposer’s deadline to submit questions (minimum five business days from the RFP issuance date)	12/16/2024
Staff JAC (only as required)	Response to questions posted to Biddingo (minimum three business days from the date questions were submitted) Post available interview dates, if interviewing	12/20/2024
	Proposals due (minimum 15 business days from the RFP issuance date)	01/21/2025
Staff	Review and evaluate proposals	01/22/2025 – 2/3/2025
Staff and JAC	Identify interview candidates	By 02/07/2025
Staff and JAC	Interview finalists	By 03/10/2025
Staff JAC (only as required)	Complete reference checks	By 03/21/2025
Staff and JAC	Make a recommendation to the Board	By April 2025, Board meetings
Boards	Board to appoint new vendors	April 2025 Board meetings
CEO	Contract setup and completion	By June 2025