

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
OFFICE OF THE GENERAL COUNSEL



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UNIVERSITY OF CALIFORNIA
UC LEGAL - PREFERRED PROVIDER REAL ESTATE COUNSEL PROGRAM
REQUEST FOR PROPOSALS

Overview

The University of California Office of the General Counsel (“**OGC**”) and the Offices of the Campus Counsel (collectively “**UC Legal**”) seek a limited number of preferred outside law firms to assist with recurring (“**Core**”) real estate transactional matters and counsel to assist with Ground Leasing, Public-Private Partnerships and other complex real estate transactions (“**Special Projects**”). The types of matters included in this Request For Proposals (“**RFP**”) are outlined below. The firms we ultimately select will be known as UC Legal “**Preferred Real Estate Counsel**” and will represent the University as part of the University’s ongoing effort to provide our faculty, staff, and students the highest quality facilities and ensure continued competitiveness in attracting the best and brightest in higher education.

The objective of this RFP is to complete the following selections based on the best value of the qualifications of the proposed team and fees:

1. A least two and no more than four Preferred Real Estate Counsel teams will be awarded the right to represent the University, as needed, for Core services for through December 31, 2025.
2. A least three and no more than five Preferred Real Estate Counsel teams will be prequalified to represent the University in connection with Special Projects through December 31, 2025. Upon successfully qualifying for the Special Projects panel, these firms will have the opportunity to bid on future Special Projects.

The selected Preferred Real Estate Counsel will be engaged to represent the University on Core matters on a rotating assignment basis. All firms successfully prequalifying for the Special Projects panel will have the opportunity to bid on future Special Projects. Although we reserve the right to assign work to other firms when necessary, we intend to assign the majority of the University's real estate legal services work with the firms selected under this RFP.

Responses to this RFP must be received by UC Legal by close of business on January 27, 2021, must contain responses to all questions in the general section and the matter-specific sections for which you wish to be considered; and must conform to the submission and formatting requirements. By submitting your proposal or qualifications, you agree to abide by the General Requirements and Terms and Conditions of this RFP as stated below. We plan to select Preferred Real Estate Counsel firms and begin assignments in March or April 2021.

RFP Timeline

- December 18, 2020 – RFP published and distributed to candidate firms
- January 6, 2021 – Last day for any questions regarding RFP from candidate firms
- January 13, 2021 – UC Legal will post answers to questions by this date at <https://ucop.edu/general-counsel/realestate-panel-recruitment.html>
- January 27, 2021 - RFP Submissions due
- February 2021 - Finalists notified and interview schedules set
- Feb/March 2021- Finalist interviews
- March/April 2021 - Firms notified of results and assignments to begin

UC Legal reserves the right to modify this schedule, at any time for any reason, at its discretion.

About UC

The University of California, one of the largest and most acclaimed institutions of higher education in the world, is dedicated to excellence in teaching, research, health care, and public service. It is a public institution encompassing ten campuses, five academic medical centers, and the UC Health System, the UC Natural Reserve System, and statewide Division of Agriculture and Natural Resources. The University is also involved in the operation and management of three national laboratories for the U.S. Department of Energy. The University occupies more than 140 million square feet of facilities and is one of the largest landowners in California. A more detailed summary of the breadth and depth of the University's operations and impact may be found online at <https://www.universityofcalifornia.edu/uc-system/parts-of-uc>.

The Office of the President, based in Oakland, California, provides system-wide management of the University. Its divisions oversee UC's academic mission, budget, external relations, legal matters, and business and financial activities (see <https://www.ucop.edu>) and coordinate a variety of functions across the UC Campuses and UC Health and the University's education, research and public service missions. The University is governed by the Board of Regents (see <http://regents.universityofcalifornia.edu>).

About UC Legal

UC Legal, working collaboratively with our clients, seeks to advance the University's mission through skilled advice, vigorous advocacy, and effective, proactive counsel. Our goal is to be valued and trusted partners, recognized for our creativity, industry-leading expertise, and commitment to client objectives. We are committed to fairness and diversity in all our interactions, and we value a commitment to diversity in our retained counsel. For more information about us and our values, please visit our website at <https://www.ucop.edu/general-counsel/index.html>.

In-house counsel located at the Office of the President and resident at the campuses and medical centers partner with outside counsel to provide legal services in a variety of areas. Engagements for services arising out of this RFP will be supervised by Oakland-based attorneys in UC Legal's Litigation and Capital Strategies Group under the supervision of the Managing Counsel – Capital Strategies.

Preferred Real Estate Counsel Scope

The scope of this RFP is focused on California real property matters and the key members of each proposed team should be licensed by the State Bar of California except for any ancillary resources designated to provide occasional or specialized advice such as Tax, Health Care, or other subject-matter requiring regulatory expertise.

The matter types are broken into two groups (listed below). The Core service matters are moderate impact/value matters that typically present less risk to the University but may require a high degree of responsiveness from counsel. Special Projects are high-impact/value matters that present significant complexity or reputational or financial risk to the University.

You may choose to apply to represent the University in either or both of the matter types listed, but you should only compete for the panel for which your firm possesses demonstrated expertise and for which you can offer competitive fees.

Core Real Estate Scope

The Core services consist of the following transactions and substantive areas of law:

1. **Leasing and Licensing:** The University leases (as both landlord and tenant) or licenses millions of square feet of space across California including office, retail, commercial, and industrial sites. Also, we occasionally master lease multi-family property for providing residential space for students, faculty, and staff. Many of the leasing or licensing transactions are negotiated and executed by the real estate staff under delegated authority at the Campus level and do not require legal services, or only require limited legal consultation. Large and more material transactions, however, often necessitate significant advisory, drafting, and negotiation support from UC Legal or outside counsel.

The Leasing and Licensing services will include:

- a. Advice and support regarding UC's commercial leasing and licensing practices, policies, and procedures including the improvement and refinement of a suite of template documents and accompanying guidance.
 - b. Transactional counseling, advice, negotiation, drafting, and support with material transactions.
2. **Acquisitions and Dispositions:** The University is a routine buyer of property in California and disposes of surplus and other property on occasion. Acquisitions are typically negotiated transactions, and the scope of services will not include condemnation proceedings. Dispositions are generally executed through a public auction process under the Stull Act, Public Contract Code Sections 10511-10513.

The Acquisitions and Disposition services will include:

- a. Advice and support regarding UC's property acquisition practices, policies, and procedures including the improvement and refinement of a suite of template documents and accompanying guidance.
- b. Transactional counseling, advice, negotiation, drafting, and support with material transactions.
- c. Advice and counseling for title review and survey matters, title insurance, and occasional counseling for other due diligence and closing matters.
- d. Advice and counseling concerning the California Relocation Assistance Act, the Stull Act, Real Property Taxes and Assessments, and other substantive matters relating to the acquisition and ownership of property in California.

- e. Advice and counseling concerning easements and other real property transactions including assistance with the negotiation, drafting, and support of material transactions.

Core Real Estate Selection

The Core services selection will be based on the best-combined value of skills, qualifications experience, diversity and inclusion, and fees. As a public entity, it is vitally important that the University control costs, including those incurred by its outside legal counsel. To drive better value and increased budget predictability, we are increasing the use of alternative fee arrangements. We encourage you to describe any alternative fee arrangements that your firm would consider entering to provide Core Real Estate legal services. These arrangements usually take the form of fixed fees, “not-to-exceed” budgets, success fees, or monthly retainers.

Proposals for the Core Real Estate services should be crafted with the understanding that the selection will be weighted toward achieving a favorable cost structure for the University. With this in mind, we expect the bulk of the Core services to be provided by professionals with specialized real estate expertise at a skill and experience level commensurate with the complexity of the particular task. We encourage firms to staff teams with professionals with at least five (5) years of solid real estate experience and supplement your team with more senior professionals as managers, and subject matter resources and experts.

The following fee proposals are required to be responsive to this RFP:

1. Hourly rates, including any discount, broken out by:
 - a. Partner Rates
 - b. Associate Rates
 - c. Blended Rates
2. Fixed Fee for a moderately complex lease negotiation. Assume the lease transaction would involve a modified gross lease based upon an approved University form for a term of more than ten years plus options, a substantial build-out of tenant improvements (office, clinical or dry laboratory), plus expansion options or similar preferential rights.
3. Fixed Fee for a routine acquisition. Assume the acquisition is for property valued at less than \$20M in an all-cash transaction with no financing. The scope of services will generally include the drafting and negotiation of a Purchase and Sale Agreement, assistance in the review of title and survey, and preparation and coordination of the closing documents and process. Assume that the University staff will be responsible for the management and supervision of the due diligence process.

UC Legal may accept any proposal received without further negotiations or discussions, or after further interviews with the finalists. Proposals submitted in response to this RFQ should, therefore, present the most favorable terms and conditions that you are prepared to offer.

Special Projects Scope

The Special Projects services will include representation of the University in its largest and most challenging real estate transactions including Public-Private Partnerships (P3s) which are often valued at \$50M or more in construction value. The University has a long history of successful projects executed under a privatized or joint public-private model. These projects are often executed under the framework of a development ground lease and combine planning, design, construction, financing, and elements of operations, maintenance, and management of facilities. The size and complexity of these projects require special counsel with significant experience in the field and firms with the staffing and other resources required to help lead a major project effort. Some of the substantive areas of expertise required are:

Real Estate: Expertise in complex real estate transactions. Significant experience in matters involving P3s; ground leases; property development; leasing; use agreements; easements; title; financing; and regulatory compliance. Experience in transactions involving universities, state agencies, state property, and complex transaction structures is strongly desired.

Construction: Expertise in both public and private works of improvement. Significant experience in matters involving the construction of higher education facilities through ground leases and P3 structures.

Commercial/Corporate/Transactional: Expertise in commercial and corporate issues, including, but not limited to, providing legal advice on complex commercial transactions, risk management, legal entity structures, and partnerships, identifying state and federal tax implications that may arise out of such transactions and proposing alternative solutions.

Governance: Expertise in identifying, assessing, designing, and implementing appropriate governance and operational structures.

Tax-Exempt Financing: Counsel may be asked to assist the University in connection with tax-exempt financing structures. This will not include acting in the role of bond counsel, however, experience with tax-exempt financing structures is desired.

Land Use/Environmental. Counsel should be familiar with California land use matters such as compliance with the California Environmental Quality Act (“CEQA”) and may be asked to coordinate with UC Legal land use counsel.

Special Projects services are expected to include negotiating all business terms and drafting the transaction documents. Counsel will also be expected to provide general legal advice to the University and to assist in properly transferring, mitigating, and managing risks. The University desires qualifications from firms that have demonstrated experience providing excellent, cost-effective advice on complex, mixed-use real estate developments involving private and public entities, land use, tax-exempt organizations, and public universities.

Special Projects Panel Selection

The Preferred Real Estate Counsel prequalified to bid on Special Projects will be selected based on the best value proposed considering qualifications, demonstrated experience, diversity and inclusion, and competitiveness of proposed fees. By submitting a proposal, each proposer will be obligated to hold the staffing and fee proposals open during the four (4) year period of this panel solicitation. Any proposed escalation in fees shall be included in the proposal.

Upon selection as Preferred Real Estate Counsel for Special Projects, you will be notified when engagements are initiated and invited to submit a fee and staffing proposal for the Special Project representation in response to a discrete request for proposal. The representation may be awarded only to members of the prequalified Preferred Real Estate Counsel panel. The fee and staffing proposal will be based upon the proposed scope of work outlined in the request for proposal, and the hourly fees may not exceed the rates submitted in response to this RFP.

The following fee proposals are required to be responsive to this RFP:

1. Hourly rates, including any discount, broken out by:
 - a. Partner Rates
 - b. Associate Rates
 - c. Blended Rates

Preferred Real Estate Counsel General Requirements

- Abide by the Outside Counsel Guidelines (**Appendix A**)¹
- Confirm that no conflicts exist and agree that UC Legal will not approve advance waiver requests and instead will consider all waivers on a case-by-case basis
- Use the UC CounselLink eBilling system for electronic invoice submittals
- Participate in the Annual Performance Review (see Annual Performance Review section below)

¹ The current guidelines are attached. UC Legal is in the process of revising its guidelines for simplification and clarification but does not anticipate material changes that would affect law firm pricing.

- No mention of the University of California or use its marks in any marketing or similar material without prior written approval
- Provide at least a 15% discount applied to customary hourly fees
- All work may be performed only with prior approval
- Diversity and inclusion in proposed team, including participation in the annual Diversity Report Card Program and provision of demographics data
- The Preferred Real Estate Counsel team proposed must have the following minimum demonstrated experience during the period from January 1, 2017, to the present, as evidenced by your submission:
 - Served as lead counsel in the acquisition or disposition of commercial property in California valued at more than \$200 million in the aggregate;
 - Served as lead counsel in the leasing of more than 2 million square feet of commercial space (excluding industrial or warehouse) in California; and
 - Served as lead counsel in the negotiation of the construction of improvements for commercial property in California with a construction value of at least \$100 million in the aggregate.

Annual Performance Review

As a means to enhance communication and provide feedback to Preferred Real Estate Counsel firms, UC Legal will schedule an annual performance review with UC Legal and other stakeholders. We may request members of the firm's management and/or the Preferred Real Estate Counsel relationship partner to attend. The annual performance review will include a review of the matters, substantive issues, results, financials, firm and matter diversity and inclusion, and any other topics requested by either party. Preferred Real Estate Counsel may not charge for time or expenses to attend the annual performance review. The results of these reviews will determine continued participation in the Preferred Real Estate Counsel program.

Diversity Report Card Program and Demographics

UC Legal strives for a high level of commitment to diversity in the legal industry. We wish to inspire law firms to a similar focus. In that vein, UC Legal will be rolling out a Diversity Report Card in the new year which will evaluate actions that our law firms have taken to promote diversity in the legal industry. The Report Card is scheduled to be launched during the first quarter of 2021, and all UC law firms (including those selected for these panels) will be required to complete the Report Card annually. In the introductory year of this program, the Report Card scores will be collected and analyzed but not considered in the distribution of work amongst firms. In addition, UC Legal periodically requires its law firms to provide demographic data for the firm as a whole as well as for its teams that are representing

the University. The next demographic data survey is also expected to be sent out in early 2021. These data will help UC Legal better understand the diversity of its outside counsel, but they will be collected separately from – and are not part of – the Report Card assessment.

Engagement Requirements

Upon acceptance into the Preferred Real Estate Counsel, UC Legal will provide the firms selected for the Core panel with an engagement letter indicating an agreement to abide by the General Requirements and Terms and Conditions as stated in this RFP and confirming rates and other proposed terms of engagement. Each engagement letter will be valid for at least four years or until an individual firm is released.

Future Special Projects will be presented to the panel of prequalified Preferred Real Estate Counsel firms and will require submission of a staffing plan and fee proposal for the assignment. The firm presenting the best value proposal will be chosen to represent the University for such Special Project. The successful bidder will be required to enter into an engagement letter indicating an agreement to abide by the General Requirements and Terms and Conditions as stated in this RFP and confirming rates and other proposed terms of engagement.

General Questions - Responses Required

Please provide succinct responses that answer each question.

1. Provide the name and contact information of the attorney assigned primary responsibility for the overall relationship with UC Legal and proposed team members. Identify the firm's commitment to diversity and inclusion for this specific relationship.
2. Provide the following information (you may attach your current NALP form to this application if the information requested is contained therein, but all points below must be addressed in your response):
 - Location of offices
 - Number of attorneys firmwide
 - Number of equity partners/members, non-equity partners/members, associates, counsel, non-traditional track/staff attorneys, and summer associates in total and in each NALP-designated population (gender identity, race/ethnicity, disability status, and openly LGBTQ) as well as for veterans
 - Number of new "homegrown partners" (i.e., associates in U.S. offices who were promoted to partner within the past three years) in total and in each NALP-designated

population (gender identity, race/ethnicity, disability status, and openly LGBTQ), as well as for veterans

- The name and contact information for your diversity chair
 - Information about your firm’s recruitment methods
 - Information about diversity fellowships or scholarships offered by your firm
 - Information about any other initiatives sponsored or supported by your firm aimed at promoting diversity within your firm, both generally and in leadership positions
 - Information about any other initiatives sponsored or supported by your firm aimed at promoting diversity within the profession
3. Describe your firm’s information security infrastructure including, without limitation, data security, document security, and safeguards against the release of confidential information.
 4. Describe your firm’s processes and systems for both program and knowledge management, and explain how these processes and systems will be used to benefit UC Legal.
 5. Describe any potential or planned changes that, in the next 12-24 months, could significantly change any of the information provided in your response to this RFP.
 6. Describe any material business or personal relationships your firm has with UC Legal or any other employees of the University of California.
 7. Has your firm or any firm attorney been a named defendant in a legal malpractice case during the past 10 years, or has any firm attorney been sanctioned by a court or regulatory authority or otherwise disciplined by the California Bar? If so, please provide details.

Terms and Conditions

UC Legal will accept proposals responding to the requests contained in this document until the close of business on **January 27, 2021**. Please submit your proposal digitally to UC Legal at <https://app.smartsheet.com/b/form/f13dc16895d8418eac566c48cd60027b> with the subject line “UC Legal Preferred Real Estate Counsel RFP.” To facilitate our review, please provide your response in the form of a PDF Portfolio. We do not intend to look at extraneous marketing material during this process and appreciate brevity in your submission. Please limit submissions to fifteen (15) pages for each of the Core Real Estate Services Panel and the Special Projects Panel.

All information provided by UC Legal in connection with this RFP shall be considered proprietary information of UC Legal. All documentation and/or ideas submitted by your firm shall also become the property of UC Legal.

If your firm has a question during this process, please send it to PRECPanel2020@ucop.edu. All such questions or requests must be received by close of business on **January 6, 2021**, and all such questions or requests received after such date will be answered, if at all, by UC Legal, in its sole discretion. You are not authorized to contact any other UC Legal employee concerning this RFP. Failure to adhere to this requirement will be grounds for disqualifying your proposal.

Following a review of the written proposals, UC Legal may ask you to travel to UC Legal's Oakland office or meet virtually for an interview. In no event will UC Legal schedule meetings in advance of receipt of your RFP response, and the only meetings UC Legal intends to hold, if any, are with the finalists. If your firm is invited to an interview, only the key individuals being proposed to work as part of the proposal should attend. UC Legal may award a position as a Preferred Real Estate Counsel without further negotiations or discussions or further interviews with the finalist law firms.

This RFP does not bind UC Legal to any obligations or impose liability for any costs or expenses incurred by your firm in responding to the proposal or traveling to an interview in connection with this RFP. UC Legal, in its sole discretion, may or may not make an award, and reserves the right to reject any responses received. UC Legal also reserves the right to terminate this RFP or any engagement at any time in its sole discretion.