

**KIOWA WATER AND WASTEWATER
AUTHORITY**



**Request for Proposal to Provide
General Counsel Legal Services
for the
Kiowa Water and Wastewater Authority**

Proposal Deadline:

September 6, 2024, by 4:00 p.m.

Direct Questions to:

Kimberly Boyd, Administrator
Kiowa Water & Wastewater
Authority
(303) 621-2366 x2

SECTION 1 - INTRODUCTION

On March 10, 2014, the Kiowa Water and Wastewater Authority of Elbert County, Colorado Board of Directors established, under provision of Title 37, Article 45.1, Colorado Revised Statutes (the Water Activity Law), the Water Enterprise and Wastewater Enterprise of the Kiowa Water and Wastewater Authority which is authorized: (i) to establish or continue to maintain water activity enterprises for the purpose of pursuing or continuing water activities, including water acquisition or water projects or facility activities including the construction, operation, repair and replacement of water or wastewater facilities; and (ii) to issue or reissue bonds, notes or other obligations payable from the revenues derived or to be derived from the function, service, benefits or facility or from any other available funds of the enterprise, the terms and conditions of such bonds or other obligations to be set forth in the resolution authorizing the same.

The Authority is governed by a five-member Board.

The Authority is seeking proposals from qualified law firm or individual to serve as primary agent responsible for providing a broad range of general legal services to the Authority. The purpose of this Request for Proposal (RFP) is for the firm or individual to demonstrate that it has the background, qualifications, competence, and capability to undertake these services with the Authority.

SECTION 2 - BACKGROUND INFORMATION

Additional information about the Kiowa Water and Wastewater Authority may be found online at <https://townofkiowa.colorado.gov/kwwa-board>.

SECTION 3 – SCOPE OF WORK

The selected firm or individual shall be readily available to perform and complete the work and provide the services as set forth below:

1. Act as legal counsel for the Authority Board Members.
2. Provide expert opinion and guidance to the Authority in the areas of, but not limited to, Colorado Revised Statutes Title 32 Special District requirements, District by-laws, rules and regulations, state or federal laws and to keep the Authority Board informed regarding any legislative matters or changes that may affect the Authority.
3. Review, draft and negotiate bonds, contracts and leases.
4. Provide expert advice on legal issues, such as:
 - A. Review personnel, fiscal and other policies, as well as by-laws.
 - B. Attend Board of Directors and Committee meetings, as necessary, in person or by video conference, to provide legal assistance.
 - C. Advise on government grant and contract issues.
 - D. Advise on responses to subpoenas, court orders, and requests for information from third parties.

- E. Open Records Requests.
- F. Other legal services as needed.

SECTION 4 – MINIMUM FIRM OR INDIVIDUAL QUALIFICATIONS

1. All attorneys performing services for the Authority on behalf of the firm or individual must be admitted to practice in the State of Colorado and in good standing with the Colorado Bar.
2. The firm or individual attorney with primary responsibility for the services provided to the Authority, (“Lead Counsel”) must have at least 5-10 years’ experience providing general counsel legal services for special Authorities similar to the Authority.
3. Demonstrated legal expertise in the following areas as it relates to special Authority and municipal governments:
 - A. Laws and regulations governing Colorado Special Authorities, such as the Colorado Government Code, Ralph M. Brown Act, Public Records Act, Political Reform Act, General Municipal Law, and Colorado Water Code; and operating procedures relative to the conduct of special Authority business.
 - B. Experience and knowledge of Public Contracting Code, Labor Code and other Colorado statutes governing the procurement process including bidding, awarding, contracting and construction of public works and improvements. Understanding of Federal and State Budgeting process whereby various funds are authorized and appropriated.
 - C. Contracts, joint power authorities, memorandums of understanding, including risk transfer provisions.
 - D. Preparation, review, and adoption of ordinances and resolutions.
 - E. Law pertaining to water utility rate setting.
 - F. Other relevant areas pertaining to special authority/water authority or municipal law.
 - G. Knowledge of Colorado water institutional structure.

This qualified firm or individual is required to perform and complete the work and provide the services as set forth in Exhibit “C” of this RFP.

SECTION 5 – PROPOSAL REQUIREMENTS

All Proposals must include and will be evaluated based on the following criteria:

1. A detailed scope of services that reflects the firm or individual’s understanding of the Authority’s requirements.
2. Written responses to all the minimum firm, or individual, qualifications identified in Section 5.
3. Personnel Qualifications. The Proposal shall identify the Lead Counsel and staff to be assigned to the Authority and include the Lead Counsel and staff’s qualifications, specialized training,

and certifications to perform the services outlined in Exhibit “C” attached herein.

4. List of Clients. A list of major public agency clients served during the last five (5) years with contact information (i.e., name of the clients, addresses, phone numbers, and contact person). The Authority reserves the right to contact any of them for references. The Proposal should also address any possible or potential conflicts of interest, and how such conflicts are to be resolved, with any of the Proposer’s existing clients.
5. Additional Firm or Individual Qualifications. The Proposal shall include the size of the firm or individual as to number of clients, the size of the firm or individual’s staff, the location of the administrative office, and the number and positions of staff who will work with the Authority regularly.
6. Capability to Meet Authority’s Requirements. This section should include experience and history of successful completion of projects.
 - a. Discuss the firm or individual’s capability to manage and schedule projects, the standard turnaround time, current relative workload, and staff’s availability.
 - b. Demonstrate the firm or individual’s expertise and experience in the projects identified under Exhibit “C”.
 - c. Demonstrate any experience the firm or individual has had working with clients similar in size or industry as Kiowa Water and Wastewater Authority, or experience working within the general service area.
7. Fee Schedule. The Proposal shall include a not-to-exceed annual or monthly maximum billable amount or a flat-stipulated amount for the duties and expectations as outlined in Exhibit “C”. Additionally, the Proposal shall include a proposed hourly rate schedule which includes a maximum billable rate that shall be applied to any work authorized outside of the scope set in Exhibit “C”. Further, the proposed price should include information on the hourly billing rates of each attorney or other legal staff who are expected to work on this representation and charges for expenses, if any, such as legal research, copies, and faxes.
8. Insurance. The proposal should include a copy of your proof of insurance as per the requirement outline in Section 6 of this RFP.

SECTION 6 – TERMS AND CONDITIONS

1. Acknowledgement of Authority’s Contract Provisions. Interested firm or individual should review and acknowledge in the Proposal that the following provisions that will be included in the proposed contract.
2. Insurance Requirements. The selected firm or individual shall procure and maintain the insurance required, for the duration of the contract, to insure against claims for injuries to persons or damages to

Authority property arising from or in connection with the performance of the work performed as set forth in Exhibit "C". The following are the Authority's standard insurance requirements.

- a. Commercial General Liability. Coverage should include \$1,000,000 per occurrence, \$2,000,000 aggregate, as applicable. Prior to the start of work, the selected firm or individual shall provide to the Authority evidence of insurance from an insurer(s) certifying the coverage. Additional insured endorsements shall be provided on Commercial General Liability form ISO 20 10 11 85 (or form ISO 20 10 10 01 accompanied by form ISO 20 37 10 01).
- b. Professional Liability Insurance. For the full term of this Agreement, the firm or individual shall procure and maintain Errors and Omissions Liability Insurance appropriate to its profession. Such coverage shall have minimum limits of no less than One Million Dollars (\$1,000,000.00) per claim.
- c. Commercial General Liability and Workers' Compensation and Employer's Liability Insurance. Insurance policies shall contain a waiver of transfer of rights of recovery ("waiver of subrogation") against the Authority, its Board Members, officers, employees, agents, and volunteers for any claims arising out of the work of the firm or individual.
- d. Additional Insured Requirements. The Commercial General Liability Coverage shall contain an endorsement naming the Authority, the Authority's governing board of directors and the Authority's appointed officials, officers, employees, agents, and volunteers as additional insureds. All Insurance policies specified above shall be issued by Colorado admitted insurers with an A.M. Best rating of at least "A-, XI".

SECTION 7 – SUBMITTING PROPOSAL

The following information is required by the deadline for the company to be considered:

1. Letter of Introduction signed by an officer of the firm or individual and a summary highlighting the key points of the proposal;
2. Detailed Proposal (addressing the scope of work);
3. Fee Schedule;
4. Signed Acknowledgement Form - refer to Exhibit "A" attached hereto;
5. Signed Conflict of Interest Form - refer to Exhibit "B" attached hereto;
6. Additional documentation, if applicable.

To be considered:

1. One (1) electronic copy of the Proposal must be received on or before 4:00 P.M. on September 6, 2024, at Town of Kiowa office located at 404 Comanche Street, Kiowa, CO 80117. An emailed proposal may be sent to Kimberly Boyd, Administrator at kboyd@townofkiowa.com.

SECTION 8 – SCHEDULE

The following dates reflect the anticipated schedule for the Proposal and selection of the firm or individual:

Procurement Process Schedule	Anticipated Dates
RFP post and distributed on website	August 26, 2024
Last day for questions regarding proposal	September 5, 2024
Proposal due date	September 6, 2024
Target date for review of proposals by Committee Panel – week of	September 9, 2024
Target Date for Board Interview of selected firm or individuals (if needed) – week of	September 16, 2024 & September 23, 2024
Final Board approval on selected firm or individual	September 26, 2024

SECTION 9 – SELECTION PROCESS AND EVALUATION CRITERIA

Proposals will be examined for compliance with all the requirements in the sections of this RFP. The Authority, in its discretion, may waive any omission which it deems, in its sole discretion, to be non-essential or inconsequential.

Authority staff will evaluate each proposal submitted for completeness, firm or individual qualifications, firm or individual experience, capability to meet Authority requirements, and cost of services. Proposing firm or individual should note that the pricing, while important, will not be the only deciding factor in the final selection but rather the ability of the firm or individual to provide and perform the required duties as outlined in Exhibit “C.”

Oral presentations and written questions for further clarifications may be required of some or all Firms or individuals. Final selection will be based on evaluation of the proposal and interview.

Any Proposal that does not include written/documented responses to all items of the “Proposal Requirements” will not be considered.

There is no expressed or implied obligation for the Authority to reimburse responding firm or individual for any expenses incurred in a firm or individual’s preparation, submission, or presentation of proposals in response to this Request. Further, the issuance of this RFP and the receipt of proposals does not commit the Authority to award a contract. The Authority reserves the right to postpone for its own convenience, to accept or reject any and all proposals, to negotiate with more than one Proposer concurrently, or to cancel all or any part of this RFP.

SECTION 10 – CONFIDENTIALITY

The Authority reserves the right to make copies of firm or individual's Proposal available for inspection and copying by members of the public, (including Proposals which may contain information the firm or individual regards as proprietary in nature), unless the Authority's legal counsel determines that the information which the firm or individual regards as proprietary may be withheld pursuant to applicable provisions of the Colorado Open Records Act (C.R.S. Title 24 Government) or other applicable state or federal law. In the event the Authority proposes to disclose records containing information the firm or individual has specifically identified as being proprietary and confidential, the Authority shall notify the firm or individual in writing of its intent to release such information, and the firm or individual shall have five (5) working days after the Authority's issuance of its notice to give the Authority written notice of the firm or individual's objection to the Authority's release of proprietary information. The Authority will not release the proprietary information after receipt of the objection notice from the firm or individual unless:

- A. The objection notice is not received by the Authority until after the close of business on the 5th day following the Authority's issuance of the notice of intent to disclose;
- B. The Authority is ordered to release the information by a court of competent jurisdiction;
or
- C. The firms or individual's objection notice fails to include a fully executed indemnification agreement wherein the firm or individual agrees to indemnify, defend and hold harmless the Authority, and its elected and appointed officials, officers, directors, employees and agents from and against all liability, loss, cost or expense (including attorneys' fees) arising out of any legal action brought to compel the release of records containing the proprietary information which the Firm or individual wishes to withhold. Again, the firm or individual must specifically identify the information it deems proprietary.

SECTION 11 – OPEN RECORDS ACT

All Proposals submitted in response to this RFP will become the property of the Authority upon submission and a matter of public record pursuant to applicable law. The Authority reserves the right to make copies of all Proposals available for inspection and copying by interested members of the public as records of the Authority and Authority shall be under no obligation to the firm or individual to withhold such records. Insofar as a Proposal contains information that the firm or individual regards as proprietary and confidential, it shall be the responsibility of the firm or individual (and not the Authority) to specifically identify which items of information are proprietary and clearly identify in writing which specific pieces of information are proprietary. It shall be insufficient for the firm or individual to merely identify the entire Proposal or an entire page or set of pages of proprietary information. With respect to information deemed proprietary, the procedures set forth under the "Confidential Information" section below shall be observed. Not-to-exceed sums, hourly rates and the like that may be set forth in a Proposal shall not constitute proprietary information nor shall any information readily available to the general public or any other information not regarded as proprietary and confidential under federal or state law.

The Authority is subject to the Colorado Open Records Act (CORA) under the C.R.S. Title 24 Government. As such, all required submitted information is subject to disclosure to the general

public.

Proposers are further advised that all the terms and conditions, including fees and fee structures, forming part of any agreement entered into shall, upon such agreement being executed, become a public record of the Authority and subject to full disclosure, and each proposer waives any right to object to any such disclosure.

Proposals submitted and terms and conditions specified in each firm or individual's bid response will remain the property of the Authority.

SECTION 12 – PROPOSAL ACCURACY

A Proposal which is in any way incomplete, irregular, or conditional may not be accepted. By submitting a Proposal, firm or individuals agree that any significant inaccuracy in information given by the firm or individual to the Authority will constitute good and sufficient cause for rejection of the Proposal.

SECTION 13 – DISCLAIMER

Kiowa Water and Wastewater Authority reserves the right:

1. To enter into agreements for legal services with persons or firm or individuals who do not respond.
2. To accept or reject any or all Proposals regardless of qualifications either in whole or part with or without cause;
3. To withdraw this solicitation at any time without prior notice, and furthermore does not make any representations that any contract will be awarded to any respondent to this RFP;
4. To award its total requirements to one respondent or to apportion those requirements among two or more respondents as the Authority may deem to be in its best interests;
5. To negotiate a final contract with any respondent(s) as necessary to serve the best interest of the Authority; and
6. Amend this RFP.

SECTION 14 – CONFLICT OF INTEREST

The Authority is subject to Codes of Colorado Regulations, under Colorado 8 CCR 1505-14 section. To protect the Board of Directors and Authority staff, all potential contracting parties with the Authority shall be required to complete a Conflict-of-Interest Questionnaire prior to the award. Refer to Exhibit "B" attached hereto.

SECTION 15 – ADMONITIONS

As of the date of this Request for Proposals and continuing until the recommended contract is

placed on the agenda of the Board for a public meeting, all proposers are specifically directed not to hold any discussions, meetings, conferences or technical discussions regarding the RFP with Authority officials or employees. During the submittal period, questions regarding this RFP may be directed only to the person indicated in the cover letter or emailed to the individual.

Contact with any other Authority official or employee during the submittal period regarding this RFP may be cause for immediate disqualification of the Proposer as determined in the sole discretion of the Board of Directors.

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EXHIBIT "A" – ACKNOWLEDGMENT FORM

The proposing firm or individual warrants the following:

1. That it will not delegate or subcontract its responsibilities under contract without the express, prior written permission from Kiowa Water and Wastewater Authority.
2. That all information provided in connection with this Proposal is true and correct.
3. That it will acknowledge and agree with all terms and conditions stated in this Request for Proposal.

Firm or individual Name (Respondent to RFP):

Address: _____

Contact Name: _____

Title: _____

Telephone No: _____

Email: _____

Signature: _____

The above-listed firm or individual is responding to a Request for Proposals for a qualified and experienced firm or individual to provide professional legal counsel services.

THIS COMPLETED FORM MUST BE RETURNED TO KIOWA WATER AND WASTEWATER AUTHORITY BY THE RESPONDENT WITH THEIR PROPOSAL.

RETURN PRIOR TO 4:00 P.M., SEPTEMBER 6, 2024

EXHIBIT "B" – CONFLICT OF INTEREST QUESTIONNAIRE

All contracting parties and proposed sub-consultants must respond to each of the following questions. For responses answered "yes", the Authority may require additional information to evaluate potential conflicts prior to award. Failure to fully disclose conflicts will result in rejection of the proposal or immediate termination of any contract awarded therefrom.

1. To the best of your knowledge, do any current Kiowa Water and Wastewater Authority members of the Board of Directors or Authority staff have any of the following financial relationships with your Firm or individual or with proposed sub-consultants?

Owner	Yes	No	
Member	Yes	No	
Partner	Yes	No	
Officer	Yes	No	
Employee	Yes	No	
Contractor; Consultant	Yes	No	
Broker	Yes	No	
Major Stockholder	Yes	No	Major stockholder means ownership of 3% or more of firm or individual stock.

If "Yes" to any of the above, did this Board member or employee participate in formulating your submittal? Yes No

2. Are you or, to the best of your knowledge, are any officers or key employees of your firm or individual or proposed sub-consultants an immediate family member of any current Kiowa Water and Wastewater Authority board member or Authority employee?

Yes No

3. To the best of your knowledge, is a Kiowa Water and Wastewater Authority board member or Authority employee seeking or being considered for employment by your firm or individual or by proposed sub-consultants?

Yes No

4. To the best of your knowledge, have you or any officers or key employees of your firm or individual or any proposed sub-consultants provided contributions directly or indirectly to a Board member while this potential new contract is pending before the Authority?

Yes No

5. Have you made any contribution(s) in the last three (3) months to any member of the Authority's Board of Directors?

Yes No

If Yes, then please indicate to whom and how much contribution was made?

6. On a separate sheet, identify and disclose any business relationship(s), direct or indirect,

past, present, or pending, with the Town of Kiowa, or any other potential conflict that the Board of Directors and Authority staff should be informed about during the selection process.

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I declare under penalty of perjury of the laws of the State of Colorado that the foregoing is true and correct.

|                         |           |
|-------------------------|-----------|
| Name (type or print)    | Signature |
| Title                   | Date      |
| Firm or individual Name |           |

THIS COMPLETED FORM MUST BE RETURNED TO KIOWA WATER AND WASTEWATER AUTHORITY BY THE RESPONDENT WITH THEIR PROPOSAL.

RETURN PRIOR TO 4:00 P.M., SEPTEMBER 3, 2024

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## EXHIBIT “C” – SCOPE OF WORK

The Board of Directors of the Kiowa Water and Wastewater Authority (hereinafter referred to as “Authority”) shall engage a law firm or individual by contract to serve as primary agent responsible for the provision of general counsel services. Such duties will be divided into two categories, 1) duties listed under an annual retainer, with an annual maximum cost authorized for the duties and expectations as outlined below; and 2) a list of duties deemed as “Special Matters” with a guaranteed hourly rate schedule for the duration of contract term.

### GENERAL DUTIES AND EXPECTATIONS

Duties and expectations of the firm or individual include the following:

1. The review of agendas and related consultation with Authority staff and members of the Board of Directors regarding the proper placement and/or description of business items on agendas;
2. Attendance in person at one monthly Board of Director meeting which can be by videoconference/teleconference. An estimated 12-15 meetings per year should be attended in person that will typically include rate studies, certain public hearings, and discussion of closed session issues;
3. Except as otherwise listed under “Special Counsel”, preparation and approval as to legal form all resolutions, ordinances, contracts, agreements, and any other legal documents or matters which are referred for advice, review, or handling during the terms of this Contract;
4. Preparation of all legal advice on behalf of the Authority to Board members, Administration staff, and other designated departmental heads or personnel as directed by the Board;
5. Collaborate and coordinate with Authority staff for the efficiency of creating, editing, revising, and managing the Authority’s contracts, MOUs, Engagement Letters, Request for Proposals (RFP), etc. Specify the process and turnaround time for urgent contracts/procurement related questions, new contracts, and urgent Request for Proposals (RFP) to be reviewed.
6. Review and evaluation of the need as well as the engagement, coordination, and supervision of activities of any special counsel retained by the Authority. This will include financial management, cost containment strategies, and administration of contracts that Authority may execute with special legal counsel.

Such administration shall include oversight services such as review of attorney invoices, coordination of special legal counsel's activities, and direction to special legal counsel with regard to strategies and communication;

7. Providing conflict of interest assistance to the Board of Directors and Administrator on behalf of the Authority, and assist Board members and staff in seeking advice from the Colorado Secretary of State;

8. Time spent reviewing, analyzing, redacting and/or developing a written response to the Colorado Open Records Act (C.R.S. Title 24 Government);
9. Providing advice as it pertains to the general powers and duties assigned to the Authority and ensuring its operational compliance with all applicable federal, state, and local legislation, statutes, codes, and procedures. This includes, monitoring and applicability of pending state and federal legislation and regulations, and new case law, as appropriate; including and not limited to:
  - a. Colorado Open Records Act;
  - b. General Municipal Law; and
  - c. Colorado Water Code.
10. Providing advice as it pertains to Kiowa Water and Wastewater Authority.

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## **EXHIBIT D - EXPLANATION OF FEES**