



CLAIMS COMMITTEE MEETING AGENDA

Thursday, December 28, 2017
1:30pm – 3:30pm

Via Teleconference
Call in # 1-866-715-6499
Participant Passcode #894885

All or portions of this meeting will be conducted by teleconferencing in accordance with Government Code Section 54953(b). The teleconferencing locations are the following: Bickmore, 1750 Creekside Oaks Drive, Suite 200, Sacramento, CA; City of Burlingame, 501 Primrose Road, Burlingame, CA; City of Cupertino, 10300 Torre Avenue, Cupertino, CA; City of East Palo Alto, 2415 University Avenue, East Palo Alto, CA; City of Los Gatos, 110 East Main Street, Los Gatos, CA; Bay Area Metro Center, 375 Beale Street, Suite 700, San Francisco, CA; and City of San Bruno, 567 El Camino Real, San Bruno, CA. Each location is accessible to the public, and members of the public may address the Committee from any teleconference location.

In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact Katie Sullivan at (916) 244-1164 or (916) 244-1199 (fax). Requests must be made as early as possible, and at least one full business day before the start of the meeting.

Materials relating to an item on this agenda submitted to this Committee after distribution of the agenda packet are available for public inspection at: 1750 Creekside Oaks Drive, Suite 200, Sacramento, CA 95833, during normal business hours. The documents will also be available on the ABAG PLAN website at <http://plan.abag.ca.gov>.

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|--|-------------|
| 1. CALL TO ORDER | |
| 2. INTRODUCTIONS | |
| 3. PUBLIC COMMENTS | |
| <i>This time is reserved for members of the public to address the Committee relative to matters of the ABAG PLAN not on the agenda. No action may be taken on non-agenda items unless authorized by law. Comments will be limited to five minutes per person and twenty minutes total.</i> | |
| 4. APPROVAL OF AGENDA AS POSTED (OR AMENDED) | |
| 5. CONSENT CALENDAR | |
| *A. Minutes from the June 22, 2017, Claims Committee Meeting | 4 |
| *B. Minutes from the October 24, 2017, Claims Committee Meeting | 6 |
| <i>Recommendation: Staff recommends the Committee approve the Consent Calendar.</i> | |
| 6. DISCUSSION CALENDAR | |
| *A. Review of Coverage Counsel Request for Proposals (RFPs) | 8 |
| <i>Recommendation: Staff recommends the Committee consider engagement of coverage counsel by ABAG PLAN (and subsequently PLAN JPA) for the provision of coverage opinions and other related services on an as needed basis.</i> | |

*Indicates supplementary materials attached.

7. **CLOSING COMMENTS** – This time is reserved for comments by Committee members and staff and to identify matters for future Committee business.

8. **ADJOURNMENT**

NOTICES:

- The next Claims Committee meeting will be held via teleconference on Thursday, January 25, 2017.

December 28, 2017

Agenda Items 5.A.-B.

CONSENT CALENDAR

SUBJECT: Consent Calendar

ISSUE:

Approval of the Consent Calendar.

BACKGROUND AND HISTORY:

The Consent Calendar consists of items that require approval or acceptance but are self-explanatory and require no discussion. If the Committee would like to discuss any item listed, it may be pulled from the Consent Calendar.

PROS & CONS:

N/A

FISCAL IMPACT:

N/A

STAFF RECOMMENDATION:

Staff recommends the Committee approve the Consent Calendar.

REFERENCE MATERIALS ATTACHED:

- A. Minutes from the June 22, 2017, Claims Committee Meeting
- B. Minutes from the October 24, 2017, Claims Committee Meeting



**Claims Committee Teleconference
Summary Minutes**

Thursday, June 22nd, 2017
1:30pm – 2:30pm

Bay Area Metro Center
375 Beale Street; Suite 700
San Francisco, CA 94105
San Andreas Conference Room

Staff Present:

Kenneth Moy – Coverage Counsel
Jill Stallman – Claims Manager / *Acting* Risk Manager
Kim Chase – Administrative Assistant

Committee Teleconference	City/Town:	State:	Street Address:
Chair: Kathleen Kane	Burlingame	CA	501 Primrose Road
Marc Zafferano	San Bruno	CA	567 El Camino Real
Heather McLaughlin	Benicia	CA	250 East “L” Street
Robert Schultz	Los Gatos	CA	110 East Main Street
Brenda Olwin	East Palo Alto	CA	2415 University

Committee Members Absent:

Randolph Hom
Scott Corey
Kathy Leroux

Other Teleconference Participants:

William Ross
David Schwartz

1. **Call to Order**
Meeting was called to order at 1:43pm by Kathleen Kane
Roll Call was taken by Kim Chase; a quorum was present

2. **Public Comments** - None

3. **Approval of Minutes** – May 18th, 2017
//M//Zafferano//S//Schultz//C//Unanimous

Closed Session was announced at 1:48pm by Kathleen Kane.

4. **Claims Coverage Discussion**

Please Note: Item # 4 was discussed in closed session pursuant to the requirements of the Ralph M. Brown Act 54956.9. All actions taken were announced in open session prior to the adjournment of the meeting.

Open Session was announced at 2:54pm by Kathleen Kane. No reportable action was taken in closed session.

5. **Other Business / Announcements**

No other business was discussed and no announcements were made.

6. **Adjournment**

Meeting was called to adjournment by Kathleen Kane at 2:54pm

Respectfully Submitted,



Heather McLaughlin, PLAN Secretary



**Claims Committee Teleconference
Summary Minutes**

Tuesday, October 24th, 2017
1:30pm – 2:30pm

Bay Area Metro Center
375 Beale Street; Suite 700
San Francisco, CA 94105
Mayacamas Conference Room

Staff Present:

Jill Stallman – Claims Manager / *Acting* Risk Manager
Kim Chase – Administrative Assistant

Participant	Member City	State	Street Address
Chair: Kathleen Kane	Burlingame	CA	501 Primrose Road
Marc Zafferano	San Bruno	CA	567 El Camino Real
Kathy Leroux	Hillsborough	CA	1600 Floribunda Avenue
Scott Corey	Suisun City	CA	701 Civic Center Drive
Robert Schultz	Los Gatos	CA	110 East Main Street
Brenda Olwin	East Palo Alto	CA	2415 University Avenue

Committee Members Absent:

Heather McLaughlin
Randolph Hom

Other Teleconference Participants:

Gregg Thornton & Danielle Lewis – Selman Breitman
Cynthia Gordon & Jeff Rogers - York

1. **Call to Order**
Meeting was called to order at 1:37pm by Kathleen Kane
Roll Call was taken by Kim Chase; a quorum was present
2. **Public Comments** - None
3. **Approval of Minutes** – June 22nd, 2017

Brenda abstained stating she wasn't present at said meeting. Kathy stated she wasn't there either. Jill stated that like in the past, even though a member wasn't present at a meeting, they can still vote to approve the content. Kathleen asked if the Claims Committee can continue the meeting minutes to the next meeting unless they need to approve now. Jill stated they can continue this item to the next meeting if they so choose. Kathleen took a vote on continuing approval of the minutes to the next meeting. //M//Kane//S//Schultz//C//Unanimous

Closed Session was announced at 1:42pm by Kathleen Kane.

4. **Claim Discussion – Active Litigation**

- a. Pacifica - Claim ABGV24015A1, DOL: 6.15.15
- b. San Carlos - Claim ABGV24909A1, DOL: 4.23.16

Please Note: *Item # 4 was discussed in closed session pursuant to the requirements of the Ralph M. Brown Act 54956.9. All actions taken were announced in open session prior to the adjournment of the meeting.*

Open Session was announced at 3:04pm by Kathleen Kane. No reportable action was taken in closed session.

5. **Other Business / Announcements**

No other business was discussed and no announcements were made.

6. **Adjournment**

Meeting was called to adjournment by Kathleen Kane at 3:05pm.

Respectfully Submitted,



Heather McLaughlin, PLAN Secretary

December 28, 2017

Agenda Item 6.A.

DISCUSSION CALENDAR

**SUBJECT: Review of Coverage Counsel Request for Proposals (RFPs)
Prepared by Ms. Yahaira Martinez, Assistant Executive Director, and Presented by
Mr. Rob Kramer, Executive Director**

ISSUE:

Mr. Ken Moy, long time ABAG PLAN Coverage Counsel, has announced his retirement effective January 5, 2018. With his retirement, ABAG PLAN is in need of selecting new Coverage Counsel to continue the high level of services previously experienced by the group.

BACKGROUND AND HISTORY:

Typically, when there is longer lead time for anticipated changes of this nature, staff would begin this process early by discussing the process to be utilized and approach with the appropriate PLAN committees and Board. However, in this situation where Mr. Moy's retirement is rapidly approaching, Staff reached out to the President and a couple of the senior members of the Claims Committee to recommend an abbreviated Request for Qualifications (RFQ) be developed and disseminated to several firms known to have successfully performed this particular type of work for California Joint Powers Authorities in the past.

The attached RFQ was developed and disseminated to four legal firms, each with extensive experience working with Joint Powers Authorities, and all were invited to submit a RFQ for Coverage Counsel services. The four firms are as follows:

Johnson, Schachter & Lewis
Murphey, Campbell, Alliston & Quinn
Gibbons & Conley
Farmer Smith & Lane

The deadline to submit a response to the RFQ is Friday, December 22, 2017. Upon receipt of all responses, staff will provide the Committee with a matrix summarizing the responses to the RFQs as well as the list of qualifications themselves.

PROS & CONS:

N/A

FISCAL IMPACT:

The cost of coverage counsel is variable based on the number of claims each year requiring review and opinion. The costs should be in line with those sustained by ABAG PLAN in the past.

December 28, 2017

Agenda Item 6.A.
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STAFF RECOMMENDATION:

Staff recommends the Committee consider engagement of coverage counsel by ABAG PLAN (and subsequently PLAN JPA) for the provision of coverage opinions and other related services on an as needed basis.

REFERENCE MATERIALS ATTACHED:

- Request for Qualifications for Coverage Counsel Services
- Matrix of Responses to the RFQ will be provided prior to the meeting under separate cover.
- Responses from firms submitting qualifications for consideration will be provided prior to the meeting under separate cover.

REQUEST FOR QUALIFICATIONS

**COVERAGE COUNSEL SERVICES
FOR
ASSOCIATION OF BAY ARE GOVERNMENTS
POOLED LIABILITY ASSURANCE NETWORK
(PLAN)**

Return qualifications to:

Rob Kramer

Executive Director

rkramer@bickmore.net

Date Issued: December 13, 2017

Response Deadline: December 22, 2017

COVERAGE COUNSEL SERVICES FOR
ASSOCIATION OF BAY AREA GOVERNMENTS, POOLED LIABILITY ASSURANCE NETWORK
(ABAG PLAN)

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IV.	QUALIFICATION REQUIREMENTS	4
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Appendices:

Appendix A - ABAG PLAN Bylaws

1. PLAN JPA Agreement
2. Liability Program Bylaws

Appendix B – ABAG PLAN Memorandum of Coverage

1. Liability Program Memorandum of Coverage

I. INTRODUCTION

ABAG PLAN (PLAN) is requesting qualifications from qualified Attorneys to provide coverage counsel service to the organization.

PLAN is a California non-profit public benefit corporation (soon to be converted to a public entity Joint Powers Authority). The group is currently comprised of 28 municipality members in the Bay Area. The purpose of PLAN is to operate and maintain a joint program for liability and property damage protection for the member agencies. PLAN is governed by a Board of Directors comprised of officials appointed by each member agency. The activities of PLAN include setting and collecting premiums, administering and paying claims and related expenses, investing PLAN's assets and offering loss prevention and other risk management related services to the members.

The group currently pools general and auto liability, workers' compensation (through a separate JPA – SHARP), property and other ancillary exposures.

Bickmore Risk Services (Bickmore) has been engaged to manage the day-to-day operations of PLAN effective January 1, 2018, including program administration, accounting, risk management, litigation management and workers' compensation oversight. Bickmore will also provide management oversight of the third party claims adjusting firms and other contracted service providers.

Coverage counsel for PLAN is retiring in early January, 2018. PLAN maintains separate general counsel and those services are not the subject of this RFQ.

More information on PLAN can be found at the following locations: <http://plan.abag.ca.gov> and <https://abag.ca.gov/sharp.html>.

II. SCOPE OF SERVICES

The services to be provided by the selected Attorney/firm include, but are not limited to the following:

- A. Review, analyze and interpret PLAN's Memorandum of Coverage (MOCs) and other governing documents, including the JPA Agreement, Bylaws and other resolutions and policies adopted by the Governing Board.
- B. Provide coverage analysis when requested by staff interpreting the Liability, Workers' Compensation and Property MOCs with respect to claims/lawsuits submitted and provide written coverage opinions to members when requested.
- C. Coordinate with PLAN Executive Director and Litigation Manager when communicating with PLAN members on coverage issues
- D. Attend Governing Board, Claims Committee and other meetings (as necessary) when requested.

- E. Upon request of the Executive Director, represent PLAN in arbitration or legal proceedings on contested coverage matters affecting PLAN.
- F. Participate in meetings with ad hoc committees and staff charged with review and revision of the MOCs.
- G. Review excess coverage documents and procedures when requested; and
- H. Perform other such duties that may be requested by the Executive Director and/or Governing Board.

III. DESIRED QUALIFICATIONS

To qualify, the candidate should meet the following minimum qualifications:

- A. Knowledge of municipal tort liability, including liability arising from alleged constitutional violations, dangerous conditions, employment discrimination, and law enforcement liability.
- B. Seven (7) years' work as Coverage Counsel or other related services to a Joint Powers Insurance Authority;
- C. Experience with and knowledge of coverage interpretations of liability, workers' compensation and property MOCs;
- D. Experience with and knowledge of Joint Power Authority agreements, bylaws and other governing documents. This includes the ability to analyze and suggest language clarifying intended Board policies, and;
- E. Ability to work effectively with the Members, Governing Board, Executive Committee, Claims Committee and staff, with respect to any of the services required by the Authority.

IV. QUALIFICATION REQUIREMENTS

Candidate submitting qualifications will provide the Authority with the following information:

- A. Resume and descriptions of recent legal services provided to representative clients. Include information on experience as it pertains to the Scope of Services outlined herein;
- B. Three (3) clients' names, contact persons, and telephone number as references;
- C. Provide two samples of coverage work products;
- D. Disclose any potential conflicts of interest in representing the Authority; and
- E. List billing rates, including any minimal charges or retainers, together with a sample billing statement

V. INSURANCE REQUIREMENTS

Prior to and during the performance of the contract, the proposer shall maintain at its own expense the following minimum insurance coverage:

1. Liability insurance in an amount no less than \$1,000,000;
2. Business Automotive Liability insurance in an amount no less than \$1,000,000 per accident;
3. Workers' Compensation insurance meeting all statutory benefit requirements of the Labor Code of the State of California and Employers Liability insurance with a minimum of \$1,000,000 per claim, if applicable;
4. Professional Errors and Omissions insurance with a minimum of \$1,000,000 limit per claim.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by PLAN. If necessary, at the option of PLAN, the insurer shall reduce or eliminate such deductibles or self-insured retentions as respect PLAN, its officers, officials, employees and volunteers; or the proposer shall provide a financial guarantee satisfactory to the PLAN guaranteeing payment of losses and related investigations, claims administration, and defense expenses up to its deductible or self-insured retention.

Other Insurance Provisions

The liability and automobile liability policies are to contain, or be endorsed to contain, the following:

1. PLAN, its Members, and all of its officers, officials, employees and volunteers are to be covered as insured as respect: liability arising out of work or operations performed by or on behalf of the Proposer; or automobile owned, leased, hired or borrowed by the Proposer.
2. For any claims related to this representation, the Proposer's insurance coverage shall be primary insurance as respects PLAN, its members, officers, officials, employees and volunteers. Any insurance or self-insurance maintained by PLAN, its members, officials, employees or volunteers shall be excess of the Proposer's insurance and shall not contribute with it.
3. Each insurance policy required by this claims shall be endorsed to state that coverage shall be canceled by either party, except after thirty (30) days prior written notice by Certified mail, return receipt requested, has been given to PLAN.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A. M. Best rating of no less than A:VII, unless otherwise acceptable to PLAN.

Verification of Coverage

The selected proposer shall furnish PLAN with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements shall be on forms provided by PLAN or on other forms provided those endorsements conform to PLAN requirements. All certificates and endorsements are to be received and approved by PLAN before work commences. PLAN reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

VI TERM

The term of the engagement to be entered by PLAN and proposer shall commence as soon as January 1, 2018, and will run continuously unless cancelled by either party. The engagement may be cancelled by either party upon sixty (60) days written notice, or sooner by PLAN.

VII SELECTION PROCESS

Only those submitting qualifications which are complete and delivered to the office of Bickmore (Sacramento) by noon of Friday, December 22, 2017 shall be considered. Only electronic copies will be accepted. Please email your qualifications to:

Rob Kramer, rkramer@bickmore.net

Bickmore will review the qualifications submitted. Those firms whose qualifications are selected as finalists for consideration may be asked to appear, at their own expense, before an evaluation panel to discuss their potential engagement.

All qualifications, whether selected or rejected, shall become the property of PLAN.

PLAN reserves the right to: reject any and all submissions; to waive any informality, defect or irregularity in a submission; to conduct contract negotiations with any entity or person submitting qualifications; to alter the selection process in any way; to postpone the selection process for its own convenience at any time; to accept or reject any individual that is submitted for consideration; and/or to decide whether or not to engage with any entity or person submitting qualifications. Nothing in this RFQ shall be construed to obligate PLAN to negotiate or enter into an agreement with any particular entity or person submitting qualifications. This RFQ shall not be deemed an offer to engage or enter into a binding contract or agreement of any kind.

Listed below is an anticipated timetable:

December 13, 2017	Dissemination of Request for Qualifications
December 22, 2017	Qualifications Submittals Due
December 27-28, 2017	Evaluations of Submissions by staff and Claims Committee
January 2018 (If required)	Interview of Prospective Bidders
December 2017 - January 2018	Selection of Coverage Counsel, Inform Bidders Of Selection, and Negotiate Agreement
January 2018	Knowledge transfer
January - February 2018	Formally Begin Engagement

Questions regarding this Request for Qualifications may be directed to:

Rob Kramer

1750 Creekside Oaks Drive

Sacramento, CA. 95833

(916) 244-1117

rkramer@bickmore.net