



## Legislation Text

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**File #:** AI 13-2195, **Version:** 2

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**Consider recommendation from the Finance/Administrative Committee to approve a contract for special counsel representation regarding certain enforcement matters.**

RECOMMENDED MOTION:

Move the board accept the proposal for special counsel representation from Lloyd Gosselink Rochelle & Townsend, P.C.

SUMMARY:

The purpose of this agenda item is for the board to consider a Finance/Administrative Committee recommendation to engage special counsel to represent the board in the event such representation is needed regarding certain enforcement matters associated with the "Administrative Penalty" process contained in Section 1.37 of the EAA Act and Chapter 715 of the EAA rules.

At the April 10, 2018, regular board meeting, the board directed staff to initiate the process to solicit a legal consultant to support the EAA's enforcement program and represent the EAA Board of Directors during the processing of any contested administrative orders related to enforcement actions. The board also voted to deviate from the EAA Bylaws and use an RFP process in lieu of the described RFQ process for such an engagement.

On Wednesday, August 7, 2019, the Edwards Aquifer Authority received one (1) proposal from Lloyd Gosselink Rochelle & Townsend, P.C. The proposal is attached for the board's reference. Also attached is a copy of the RFP that contains a draft contract that would be utilized to engage special counsel if so directed.

Staff advertised an RFP for special counsel in five regional newspapers: four (San Antonio Express News, New Braunfels Herald-Zeitung, San Marcos Daily Record, and the Uvalde Leader News) on July 21, 2019, and one (Hondo Anvil-Herald) on July 25, 2019. It was posted on the Texas Purchasing Group-Electronic Listing from Monday, July 15, 2019, through Wednesday, August 7, 2019, and on the State of Texas Comptroller-Electronic State Business Daily from Monday, July 15, 2019, through Wednesday, August 7, 2019.

In addition, on Monday July 14, 2019, EAA staff directly provided the RFP packet to three potential vendors - all of which were M/WBEs. On July 23, 2019, a pre-proposal meeting was held for interested entities.

The Texas Purchasing Group-Electronic Listing reported that three hundred forty three (343) vendors were notified of the proposal packet, and eight (8) were downloaded. None of these vendors were M/WBEs.

At the August 27 meeting, the Finance/Administrative Committee voted to recommend the board accept the proposal for special counsel representation from Lloyd Gosselink Rochelle & Townsend, P.C.

M/WBE PARTICIPATION:

This agenda item does not involve the procurement of goods or services by the EAA and, therefore, this section is not applicable.

STRATEGIC PLAN REFERENCE:

This agenda item does not relate to a specific goal or action step within the Strategic Plan, but supports the general EAA mission.

FISCAL IMPACT:

The fiscal impact of engaging special counsel is not yet known but will be reported, if and when, the board considers action on an engagement agreement for representation. Special counsel representation will be required only when administrative orders related to enforcement actions are contested.