



Fresno Unified School District

FRESNO UNIFIED SCHOOL DISTRICT
JOINT HEALTH MANAGEMENT BOARD

REQUEST FOR PROPOSAL

No. 21-27

Firm for
Legal Counsel for Fresno Unified School
District Employee Health Plan

**Return Proposals to:
Purchasing Services Dept.
Fresno Unified School District
4498 N. Brawley
Fresno, California 93722
559-457-3588**

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JOINT HEALTH MANAGEMENT BOARD
(OF THE FRESNO UNIFIED SCHOOL DISTRICT)

RFP No. 21-27
LEGAL COUNSEL FOR EMPLOYEE HEALTH PLAN

NOTICE OF INVITATION

Request for Proposal No. 21-27, prepared by the Joint Health Management Board (“JHMB”) of the Fresno Unified School District (“District”) is accepting proposals for Legal Counsel for the Fresno Unified School District Employee Health Plan.

The Intent to Submit Proposal Form must be received no later than **3:01 pm** on **February 12, 2021** at Fresno Unified School District Purchasing Department, 4498 N. Brawley, Fresno CA 93722. The completed form may be delivered or emailed to toni.jorge@fresnounified.org. A confirmation email by the District acknowledging receipt of the form will be distributed.

Sealed Proposals must be received no later than **3:01 pm** on **March 5, 2021**, at Fresno Unified School District Purchasing Department, 4498 N. Brawley, Fresno CA 93722. Packages must be prominently marked with the RFP No., Title, Due Date, Time and name of firm submitting the proposal. Each organization submitting an RFP shall submit an electronic copy and two hard copies of the RFP. E-mail to toni.jorge@fresnounified.org. Submittals received later than the designated time and date will not be accepted. Facsimile (FAX) copies of the proposal will not be allowed.

Award will be to the most responsible, responsive proposal based on the evaluation criteria outlined in the RFP document.

JHMB reserves the right to accept or reject any or all RFP or to negotiate with any or all responsible individuals submitting a response, and to waive any informality in the RFP process.

To download a copy of this Request for Proposal, go to: <https://purchasing.fresnounified.org/bid-opportunities/> and click on title of RFP. A copy of the RFP may also be obtained from FUSD Purchasing Department.

Refer questions regarding the RFP to: Toni Jorge at (559) 457-3463 or toni.jorge@fresnounified.org.

RFP Posted: **January 29, 2021**



Fresno Unified School District

**INTENT TO SUBMIT
PROPOSAL FORM**

*VENDOR FOR
LEGAL COUNSEL FOR
EMPLOYEE HEALTH PLAN*

The Intent to Submit Proposal Form must be received no later than **3:01 pm** on **February 12, 2021**. The completed form may be delivered or emailed to toni.jorge@fresnounified.org. A confirmation email acknowledging receipt of the form will be distributed. It is Provider's responsibility to confirm District receipt of form.

This is to advise you that we are in receipt of the above-referenced RFP. We also wish to advise you that we:

- Will be submitting a proposal by March 5, 2021
- Will not be submitting a proposal for the following reasons:

Signature

Name (Printed)

Title

Company

Phone Number

Email Address

I. RFP INSTRUCTIONS

- A. Vendor must complete and submit the Intent to Submit Proposal form in order to be considered as a valid RFP respondent.
- B. Questions are welcome during the Question Period; all submissions will be compiled, and responses distributed by **February 12, 2021** via addendum.
- C. Each Provider submitting a proposal package shall submit one (1) electronic copy and two (2) hardcopies. Any supplemental information (marketing materials, brochures, etc.) should be submitted as Appendices and packaged separately from the body of the response.
- D. Sample Contract. Respondents will submit a copy of their proposed contract as part of the RFP response.
- E. Sealed Proposals will be accepted at District Purchasing, no later than **3:01 P.M.** on **March 5, 2021** at 4498 N. Brawley, Fresno, CA 93722. Packages must be prominently marked with the RFP No., Title, Due Date, Time and name of firm submitting the proposal. Each organization submitting an RFP shall submit an electronic copy and two hard copies of the RFP. E-mail file to toni.jorge@fresnounified.org. Submittals received later than the designated time and date will not be accepted. Facsimile (FAX) copies of the proposal will not be allowed.
- F. The JHMB/District reserves the right to accept or reject any or all proposals or to negotiate with any or all responsible parties submitting a response to this RFP, and to waive any informality in the RFP process.
- G. Cost for developing responses to this RFP are entirely the responsibility of the firm and shall not be chargeable to District or JHMB.
- H. Report Fraud, Waste, or Abuse. Call the Anti-Fraud Hotline, (559) 325-3200, or by completing the fraud, waste or abuse reporting form online at <http://www.ppcpas.com/fresno-unified-fraud-alert>. The anti-fraud waste or abuse reporting hotline is available to report alleged fraud in the district. The responsibility for monitoring the hotline rests with the internal auditor for Fresno Unified School District, Price, Page & Company. A report may be made anonymously.
- I. Prohibited Interests/Conflict of Interest. Provider is responsible for understanding and ensuring adherence to California Government Code section 1090 et seq., with respect to the project. Pursuant to Government Code section 1090, no DISTRICT officers or employees shall be financially interested in any contract made by them in their official capacity, or by anybody or board of which they are members. Nor shall DISTRICT officers or employees be purchasers at any sale or Providers at any purchase made by them in their official capacity. No official or employee of DISTRICT who is authorized in such capacity and on behalf of DISTRICT to negotiate, make, accept, or approve, or to take part in negotiating, making, accepting or approving, any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with construction of the project, shall become, directly or indirectly, financially interested in the project or in any part thereof.

J. In order to control information disseminated regarding this RFP, organizations interested in submitting proposals are directed **not** to make personal contact with JHMB Directors or District employees. All submissions and related inquiries must be made through: Toni Jorge at (559) 457-3463 or toni.jorge@fresnounified.org.

K. RFP Tentative Timeline

1. RFP Released:	01/29/2021
2. Intent to Submit Proposal due prior to 3:01 P.M.:	02/12/2021
3. Question Period	01/29/2021 – 02/12/2021
4. Responses to Questions published to all	02/19/2021
5. Proposals due prior to 3:01 P.M.:	03/05/2021
6. Committee Evaluation Period:	03/08/2021 – 03/26/2021
7. Finalist Interviews:	04/05/2021 – 04/09/2021
8. Board Vote:	04/22/2021

II. SPECIAL DISCLOSURES, GENERAL TERMS AND CONDITIONS

A. **Anti-discrimination.** Fresno Unified School District prohibits discrimination, harassment, intimidation, and bullying based on actual or perceived race, color, ethnicity, national origin, immigration status, ancestry, age, creed, religion, political affiliation, gender, gender identity, gender expression, genetic information, mental or physical disability, sex, sexual orientation, marital status, pregnancy or parental status, medical information, military veteran status, or association with a person or a group with one or more of these actual or perceived characteristics or any other basis protected by law or regulation, in its educational program(s) or employment. If you believe you, or your student, have been subjected to discrimination, harassment, intimidation, or bullying you should contact your school site principal and/or the District’s Chief Compliance and Title IX Officer Paul Idsvoog, by phone at 559-457-3730, by email at Paul.Idsvoog@fresnounified.org, or in person at 2309 Tulare Street Fresno, CA 93721.

B. **Public Records Act.** The RFP and the submittal responses/documents are subject to public records request in accordance to Government Code 6252. Confidential information will be protected and excluded from any public records request in accordance with statutes available to the District.

C. **Confidentiality of Records** All information, written, oral, electronic or otherwise prepared or furnished to JHMB by Respondent in its response become the property of JHMB, which JHMB may use as it deems appropriate. JHMB will not divulge confidential information obtained through the proposal process to other Respondents/vendors.

All information, written, oral, electronic or otherwise, acquired from JHMB during the proposal process is the exclusive property of JHMB and is confidential. Respondent may disclose such information to third parties only with JHMB’s prior written consent. Respondent agrees to use such JHMB property for no purpose other than preparation and submission of its proposal. Respondent must return all such property to JHMB upon fulfillment of the Contract, or rejection or withdrawal of the proposal, whichever occurs sooner.

Responses to this RFP become the exclusive property of the JHMB. At such time as the JHMB selects a Vendor to provide the requested services, all proposals received in response to this RFP may become a matter of public record, unless the recommendation is to reject all proposals and reissue the RFP, and may be regarded as public records, with the exception of those elements in each proposal which are defined by the Respondent as business or trade secrets and plainly marked as “Confidential,” “Trade Secret,” or “Proprietary.” The JHMB shall not be liable or in any way responsible for the disclosure of any such proposal or portions thereof, if they are not plainly marked as “Confidential,” “Trade Secret,” or “Proprietary” or if disclosure is required under the Public Records Act. Any proposal which contains language purporting to render all or significant portions of the proposal “Confidential,” “Trade Secret,” or “Proprietary,” shall be regarded as non-responsive.

Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the JHMB may not be in a position to establish that the information that a Respondent submits is a trade secret. If a request is made for information marked “Confidential,” “Trade Secret,” or “Proprietary”, the JHMB will provide the Respondent who submitted the information with reasonable notice to allow the Respondent to seek protection from disclosure by a court of competent jurisdiction.

D. Contract Implementation Meetings. Upon award, the Vendor may be required to participate in meetings for the successful implementation of the contract. The meetings will be at the discretion of the JHMB. The Vendor will be notified in advance of the meeting(s) time, frequency, and locations to ensure all appropriate contract staff and representatives attend.

E. Genetic Information Nondiscrimination Act. The Respondent warrants that it is familiar with the requirements of the Genetic Information Nondiscrimination Act (“GINA”), which prohibits employers from using an individual’s genetic information when making hiring, firing, job placement, or promotion decisions, and will comply with all GINA requirements in the course of any resultant contract.

F. Health Insurance Portability and Accountability Act. The Respondent warrants that it is familiar with the requirements of the Health Insurance Portability and Accountability Act (“HIPAA”) and will comply with all applicable HIPAA requirements in the course of any resultant contract.

G. Independent Contractor. Any resultant contract is for the Contractor to provide work under a service agreement with the Fresno Unified School District and not as an employee or agent of the District or JHMB. The Contractor is solely and exclusively responsible, legally and financially, for wages, per diem, taxes, Social Security payments, health benefits, insurance, bonds, Workmen’s Compensation costs, and any other fees or expenses the Contractor may be required to pay in his/her normal course of business.

While engaged in carrying out and complying with terms and conditions of the contract, the bidder agrees by his/her signature on the RFP Form that he/she is an independent contractor and not an officer, employee or agent of the District or JHMB.

H. **Insurance.** Without limiting Vendor's indemnification, it is agreed that Vendor shall secure and maintain in force during the term of the engagement a Commercial General Liability policy (Contractual liability included) utilizing an occurrence policy form, with limits of not less than one million (\$1,000,000) dollars per occurrence, two million (\$2,000,000) annual aggregate limits. Business automobile Liability Insurance shall be maintained for owned, scheduled, non-owned or hired automobiles with a combined single limit not less than one million (\$1,000,000) dollars per occurrence. The District shall be named as an additional insured on the policies by separate endorsement. A Certificate of Insurance and endorsements shall be attached to the Agreement as proof of insurance. The Vendor's policy shall provide that it is primary such that insurance maintained by the District, if any, shall be excess and not co-primary. Vendor shall produce the policy for District, upon request.

I. **Key Personnel.** It is essential that the vendor provide an adequate staff of experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this contract. The vendor must assign specific individuals to the key positions and include their names and titles as part of the RFP. Once assigned to work under the contract, key personnel shall not be removed or replaced without the prior written approval of the JHMB.

J. **Licenses.** Vendor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of a business conducted by the vendor.

K. **Non-Exclusive Contract.** Any resultant contract will be awarded with the understanding and agreement that it is for the sole convenience of the JHMB. The JHMB reserves the right to obtain like goods or services from another source when necessary.

L. **Other Contracts.** The JHMB may undertake or award other contracts for additional or related work and the vendor shall fully cooperate with such other vendors and carefully fit his/her own work to such additional work. The vendor shall not commit or permit any act which will interfere with the performance of work by any other vendor. The JHMB shall equitably enforce this section as to all vendors to prevent the imposition of unreasonable burdens on any vendor.

M. **Ownership.** All deliverables and/or other products of the contract (including but not limited to reports, records, summaries and other matter and materials prepared or developed by the vendor in performance of the contract) shall be the sole, absolute and exclusive property of the JHMB, free from any claim or retention of right on the part of the vendor, its agent, sub-contractors, officers or employees.

III. INTRODUCTION

The Fresno Unified School District is situated in the City of Fresno, California, and is the third largest public-school district in the state. The District provides educational services to a diverse student body of 74,000 in grades K through 12. The District provides health coverage primarily through self-insurance to over 7,900 active employees, 5,500 retirees, and 16,200 dependents.

The District's health plan has been administered since 2005 by the Joint Health Management Board (JHMB), a thirty-member board which is composed of management representatives and representatives from the District's six recognized employee organizations. While the JHMB is not organized as a trust, the bargaining parties have accorded it significant administrative autonomy and authority. The JHMB is not subject to the Ralph M. Brown Act. More information about the JHMB may be obtained at its website (www.jhmbhealthconnect.com).

The District has traditionally offered health benefits on a self-insured basis. Beginning in 2012, Kaiser has been offered as an option to plan participants. The Plan also includes Employer Group Waiver Plan (EGWP) prescription drug coverage under Medicare Part D. There are a total of 18 different vendors/contracts that collectively service the Plan.

IV. PROPOSED SCOPE OF WORK

It is recognized that there is a continuing need for legal services in the administration of the Plan to ensure that the JHMB and District are protected and the affairs of the JHMB and Plan are conducted in accordance with the terms of the JHMB By-Laws, the applicable collective bargaining agreements, the provisions of the Public Health Service Act (PHS Act), the Internal Revenue Code and the regulations relating thereto, and all other laws and regulations which may be applicable to self-funded non-federal governmental plans. The District health plan is exempt from ERISA.

Areas of Responsibility:

- A. **By-Law Reviews.** Make a periodic review of the By-Laws and Board Policies governing the JHMB, as may be requested by the Board of Directors or by the Co-Chairs, to ascertain that such document is legally sufficient and consistent with the JHMB's objectives. Suggest appropriate amendments. Prepare By-Law amendments as needed and as authorized.
- B. **Contract Reviews.** Make a periodic review of all existing contracts which pertain to the administration of the JHMB and Plan (such as provider contracts and contracts covering administration services), to ascertain that such agreements are legally sufficient and consistent with the JHMB's objectives. Suggest appropriate amendments. Prepare amendments to such contracts, or review amendment drafts, if prepared by others. Prepare and/or review all new contracts which may be authorized. There are currently a total of 18 different vendors/contracts that collectively service the Plan.
- C. **Plan Booklet and Amendments.** Assist the Plan's administrator with the periodic updating of the Plan Booklet, and all Plan documents, including the Summary of Benefits and Coverage. Assist with the drafting of proposed amendments to the Plan. Advise as to the legal sufficiency of such items and as to the requirements for filing and distribution.
- D. **Meeting Attendance.** Attend all Board of Directors meetings (unless excused) and provide the Directors with legal advice and consultation concerning legal issues and questions which arise during such meetings. Inform the Board of Directors with respect to new legal and legislative developments of significance.

- a. Attend monthly Board of Directors meetings in Fresno, CA (estimated 6-7 hours/each.)
 - b. Attend Board of Director's annual Education Day (estimated 6-7 hours)
 - c. Attend weekly Professional Staff calls (1.5 hours/each.)
 - d. Attend periodic Committee meetings, as requested.
- E. **Minutes.** Review drafts of the Board of Director's meetings and suggest appropriate modifications. Review the notes/deliverables of Committee meetings.
- F. **Appeals.** Advise and assist with the conduct of appeals requested by participants.
- G. **Day-to-Day Legal Questions.** Advise the Board of Directors, administrator, consultant(s), and other advisors and professional staff, where appropriate, concerning legal questions which arise in the course of the day-to-day administration of the Plan.
- H. **Written Opinions.** Research and draft opinions concerning legal issues which are complicated or problematic, as may be requested by the Board of Directors or by the Co-Chairs.
- I. **Governmental Reports and Forms.** Assist the Plan's administrator and other personnel, as may be requested, in the preparation and submission of government reports and forms.
- J. **Litigation.** Represent the Plan with respect to all claims and proceedings brought against it including litigation, arbitrations, and administrative agency proceedings, which arise out of Plan administration. It is recognized, however, that considering the nature or complexity of the particular claim or the existing time commitments of the law firm, it may be appropriate to assign such matters to outside litigation counsel, as the Board of Directors may approve. In such an event, the law firm's responsibility will be to monitor the activities of outside counsel and to serve as the liaison between the JHMB, Plan, and such counsel.
- K. **Legal Developments.** Monitor legal publications and analyze developing statutes, case law, and regulations which may affect the Plan.
- L. **Other Assignments.** Carry out such other activities or assignments as the Board of Directors or Co-Chairs may request.

As a point of reference, based on the above services, the number of hours spent on the District/JHMB account by current Legal Counsel were 464.50 in 2019 and 408.30 in 2020. 2020 hours were lower overall, as travel time was not included from March – December, due to the COVID pandemic.

V. QUESTIONS/RESPONSE REQUESTS

For this section, reference questions in Appendix 1 (Excel worksheet format). Please provide your responses to each question/item using the Excel worksheet supplied in Appendix 1. Do not change the formatting of the table (i.e., add rows, delete rows, merge cells, etc.).

Any firm interested in providing legal services to the JHMB must submit a proposal organized as

outlined below. Any proposal that does not contain the information outlined below will not be considered.

VI. REFERENCES

Please provide two to four references, at least one current and one terminated, in the following format:

Current/Prior Client Designation
Company Name
Contact Name
Contact Phone Number

1.

2.

3.

4.

VII. EVALUATION CRITERIA

- A. The criteria used for evaluation of submittals may include, but is not limited to, the following:
1. Understanding and support of the JHMB's goals and objectives.
 2. Experience, expertise, and knowledge of self-funded non-federal governmental plans.
 3. Stability, reliability and continuity of the organization and its members, partnerships and associations.
 4. References.
 5. Other considerations deemed relevant by the JHMB.

VIII. EVALUATION AND SELECTION PROCESS

- A. The process that will be used by JHMB in selecting a vendor to perform services as outlined in the Request for Proposal will be as follows:
1. Evaluation Committee – An Evaluation Committee (RFP Committee) made up of the Joint Health Management Board (“JHMB”) of the Fresno Unified School District, and potentially others with experience in self-funded non-federal governmental plans, will review and evaluate submittals.
 2. The method of evaluation used by the RFP Committee will be by the Forced Ranking in which the RFP Committee members will be instructed to rank providers with scores of #1, #2, and so on, with #1 being the highest ranking. The combined highest ranking of all committee members will represent the top proposals.
 3. The top-ranking Providers will be approved to move forward to present (via virtual/on-line platform) to the RFP Committee.
 4. The selected Provider will be by consensus of the RFP Committee based on the presentation and RFP submittal.
 5. The RFP Committee reserves the right to open negotiations with one or more top ranked Party(s) that submit proposals and deemed by the Committee to be the most advantageous to the District/JHMB. No top ranked party will be skipped over without opportunity to negotiate with Committee.

SUBMITTAL CHECK LIST

The listed documents below are required to be provided as part of your submittal

- Non-Collusion Declaration - Attached
- No Prohibited Interest/Conflict of Interest Declaration - Attached
- Proposal Signature Page Form - Attached
- Appendix 1 - Questions/Responses - Attached (Excel workbook)
- References (in the format as described in Section VI.)
- Proposed Sample Contract

**NON-COLLUSION DECLARATION TO BE EXECUTED BY AND
SUBMITTED WITH BID
Public Contract Code section 7106**

The undersigned declares:

I am the _____ [name/title]
of _____ [company], the party making the
foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The Respondent has not directly or indirectly induced or solicited any other Respondent to put in a false or sham bid. The Respondent has not directly or indirectly colluded, conspired, connived, or agreed with any Respondent or anyone else to put in a sham bid, or to refrain from bidding. The Respondent has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the Respondent or any other Respondent, or to fix any overhead, profit, or cost element of the bid price, or of that of any other Respondent. All statements contained in the bid are true. The Respondent has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a Respondent that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the Respondent.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____ [date], at _____ [city], _____ [state].

Printed name of Authorized Company Representative

Signature of Authorized Company Representative

PROHIBITED INTEREST/CONFLICTS OF INTEREST DECLARATION
(TO BE EXECUTED AND SUBMITTED WITH RFP No. 21-27)

I hereby certify and declare that the undersigned Respondent has reviewed and understands Article I of the RFP Instructions, Prohibited Interests/Conflicts of Interest, and that Respondent has no business relationship with any member of the Board of Education (“BOE”) or Joint Health Management Board (“JHMB”), that gives any BOE or JHMB member a financial interest in any contract between Respondent and the District, other than a financial interest that qualifies as a “remote interest” or a “noninterest,” and that no Prohibited Interests/Conflicts of Interest exist which violate Article I of the RFP Instructions and thereby preclude Respondent from contracting with the Fresno Unified School District. Respondent further understands that the provision of a bid/quote to Respondent over 5 years prior to a BOE member’s election or appointment, without the goods or services included in the bid actually being furnished to Respondent, i.e., an unaccepted bid/quote, does not qualify to cause a financial interest to be a “remote interest” as that term is defined in California Government Code section 1091(b)(8).

Consistent with the foregoing and with Article I of the RFP Instructions relating to Prohibited Interests/Conflicts of Interest, Respondent understands that if Respondent is awarded the contract for this Project and a Prohibited Interests/Conflict of Interest is thereafter discovered which violates Article I of the RFP Instructions, Prohibited Interests/Conflicts of Interest, the contract between Respondent and Fresno Unified School District may be void, and in such event Respondent may be required to disgorge all monies received pursuant to such void contract.

I declare under penalty of perjury under the laws of the State of California that 1) Respondent has reviewed all necessary documents and exercised all due diligence in determining that no Prohibited Interests/Conflicts of Interest exist as set forth above and as described in Article I of the RFP Instructions relating to Prohibited Interests/Conflicts of Interest, with respect to the undersigned Respondent, 2) I am authorized by Respondent to execute this form on Respondent’s behalf and to make the certifications contained herein, and 3) the representations and certifications set forth herein are true and correct.

Dated: _____, 2021 _____
[Company Name]

[Name and Title of Respondent’s Representative]

[Signature]

PROPOSAL SIGNATURE PAGE FORM

RFP #21-27

Legal Counsel for Health Plan

The undersigned, having carefully examined the RFP and all addenda, proposes and agrees to be bound by all terms and conditions of the firm submittal to the RFP.

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

To be signed by authorized company agent acknowledging submittal of RFP. Prices should be typed and shown as instructed on the RFP form for each item, in the amount of quantity specified in the RFP form. Errors may be crossed off and corrections made prior to RFP opening only and must be initialed in ink by the person signing this form.

Name of Company

Address

Signature

City State Zip Code

Print Name

Phone Number Fax Number

Title

Email Address

Federal Tax ID #

APPENDIX 1

Excel Form for Questions/Responses.