



## MIDDLESEX COUNTY COLLEGE

### LABOR COUNSEL

## REQUEST FOR PROPOSALS

SQ # 10595

**Due Date: March 19, 2019 at 2:00 PM**

Middlesex County College (MCC) invites all interested parties to submit proposals to provide legal services for labor negotiations and other labor matters to the College for the **two (2) year** period beginning May 1, 2019. The College has already engaged another firm to act as Board Counsel and to advise on other general corporate matters.

This invitation is made in conformity with the State of New Jersey's Pay-to-Play statute (N.J.S.A. 19:44A-20.4 et seq.) with respect to professional services conducted in a fair and open process. The expected response date is by **2:00 PM on March 19, 2019** and delivered to the attention of the Director of Purchasing in **Chamber Hall, Room 219**.

The Board of Trustees will review all written proposals and may select up to three (3) firms for in-person presentations. The essential criteria upon which the College will base its selection are the following:

- Extent of experience in higher education
- Demonstrated significant experience in bargaining unit negotiations and other labor law matters—e.g. number of clients, number of contracts negotiated each year
- Size of professional staff in areas most impacting the College

- Willingness to provide services at an hourly rate – detail particular rates
- Perceived existing or potential conflicts of interest

In order to help evaluate your firm's interest we have provided some general background information on the College as well as a description of legal services provided by others during the last two years. If requested by the firms selected for presentations, we will also provide copies of audited financial statements, bargaining unit contracts, Board by-laws and Board policies.

We have not developed a standard form for your response. However, your proposal should address the selection criteria directly. You may also include some brief promotional material and profiles of the professionals who may be assigned to our account. Please provide three (3) sets of all materials.

It is the sole responsibility of the bidder to insure that its response is delivered on time. MCC shall not be liable for any proposals lost in transit.

MCC reserves the right to retain all proposals for consideration for a period not to exceed sixty (60) days. MCC shall not be responsible for or be bound by any verbal answers to questions during this process. All questions and responses must be in writing. The College reserves the right in its sole discretion to waive any insubstantial irregularities in these procedures and further reserves the right in its sole discretion to permit insubstantial defects to be cured.

## **GENERAL BACKGROUND INFORMATION**

Middlesex County College has been serving Middlesex County residents for over 50 years. The College offers more than 90 associate degree and certificate programs. In addition, more than 700 customized training programs and non-credit courses are available for those seeking personal and professional development. In partnership with many of New Jersey's four-year institutions, MCC currently offers courses leading to bachelors or master's degrees at its Edison Campus.

The College is accredited by the Middle States Association of Colleges and Schools MCC has over 11,000 full and part-time students and offers classes throughout the year including summer sessions. An additional 8,000 students are served through non-credit Continuing Education and summer programs. The College currently employs 154 full-time and 500 part-time faculty members. There are 800 full-time and 50 part-time staff members.

The College maintains a main campus in Edison, as well as first class urban outreach centers located in New Brunswick and Perth Amboy.

## GOVERNANCE & FUNDING

The College operates under the authority of New Jersey Statute Title 18A, Chapter 64A for County Colleges. The Board of Trustees consists of 12 members.

These statutes embody considerable requirements and provide guidance with respect to conducting day-to-day operations including: governance, board meetings, fiduciary responsibility, budgetary approvals, purchasing practices, employment policies, liability and insurance obligations.

The College unrestricted education and general unrestricted expense budget is supported by the by, Student Tuition & Fees, Middlesex County Appropriations, and State of New Jersey Direct Aid.

The County also provide funding for capital projects at amounts that vary each year based on College need and availability of funds.

Eligible College employees must be enrolled in a State eligible pension plan. National and local forecasts suggest that the community college enrollment will continue to decline modestly for the next few years reflective of a slight decline in the number of high school graduates. However, the appropriate level of government funding is not assured.

## RECENT LEGAL REPRESENTATION

### Human Resources

Most employees, except for Administrators, Grant and Special Project employees, are represented by five different bargaining units.

Faculty, full-time, 154 members	American Federation of Teachers
Faculty, part-time, 500 members	American Federation of Teachers
Administrative staff 140	American Federation of State, County, Municipal Employees
Facilities and Maintenance 77	International Brotherhood of Teamsters
Police Department 10	Fraternal Order of Police

Four of the current bargaining unit contracts are for 4 years and were successfully negotiated for the period beginning July 1, 2016 and ending June 30, 2020. One contract expires June 30, 2019. The College expects to begin preliminary discussions for a new contract period by February 2019. The overall internal labor climate at this time would be considered as professional and cooperative. Major issues during the last settlement related to salary increases, grievance procedures, further employee health care cost participation, promotional process and workload/length of workday. All were resolved amicably, but the process extended well beyond the contract expiration date. The contract wage increase component was 2.5 % each year. However, in light of current state budget shortfalls, the continued economic stress impacting local government, and unabated escalation of healthcare costs, the negotiating climate will likely be challenging.

On a more regular basis counsel would be called upon to assist management with respect to

employee grievances which are not readily resolvable. These typically relate to job duties, performance appraisal or promotion. Occasionally there may be a challenge to the tenure process. There are also periodic questions with respect to interpretation of Federal and State labor laws or employee benefit and taxation issues. Title IX issues related to student or workplace harassment are infrequent.

Significant Outstanding Litigation:

To be disclosed to firms selected for interviews. Current estimate of exposure for one employee related claim is between \$25,000 – 50,000.

**Expected Recurring Level of Legal Representation**

Human Resources general	75 - 100 hours
Contract Negotiations	150 – 200 hours per contract

**Business Insurance**

The College is one of the members of the Middlesex County Joint Insurance Fund (JIF). The JIF self-insures to certain limits in these primary areas: General Liability, Property Damage and Directors & Officers Liability. The College purchases other specialty coverage directly – professional liability for nurses and counselors, student accident, health and sports. While many claims would fall under the jurisdiction of the JIF and its separate legal representation and insurance carrier administration, the College’s counsel has frequently been authorized in advance to serve the interest of the JIF in particular cases. Even if that were not the situation, the College might still choose to have independent counsel because resolution of a matter acceptable to management might take a different approach than that recommended by the JIF.

**SPECIFICATIONS**

**A. OBJECTIVE**

Serve as the labor counsel for Middlesex County College with specific emphasis on bargaining unit negotiations and resolving employee grievances.

**B. GENERAL RESPONSIBILITIES**

- Serve in the role as the College’s prime negotiator for renewing and changing existing labor contracts for five bargaining units. Provide review and advice regarding Middlesex County College (the College) personnel policies and procedures, especially regarding compliance with and interpretation of applicable federal, state

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and local statutes, rules, regulations and related operating parameters for a period of two (2) years beginning May 1, 2019

- Collective Bargaining Agreement Review - Provide review and advice regarding legal clarity, sufficiency and compliance with federal and state statutes for the collective bargaining agreements for members of the American Federation of State, County and Municipal Employees Local 2269, American Federation of Teachers Local 1940 and Local 2222, International Brotherhood of Teamsters Local 11, Fraternal Order of Police Lodge 85; and provide specific interpretations of agreement provisions and statutory changes, which may affect agreement provisions.
- Third Party Representation - Provide assistance and advice to the College staff regarding case presentation and representation of the College before third party review and appeal boards for personnel and collective bargaining cases and disputes. Specifically, to prepare cases for and provide representation usually before, but not limited to, the New Jersey Public Relations Commission (PERC) and the Equal Employment Opportunity Commission (EEOC).
- Internal Disciplinary Hearings - Represent the College in internal disciplinary hearings either as Hearing Officer, or representing the College in grievances, mediation and arbitration related to labor matters as well as court actions related to labor matters.
- Other Related Work - Facilitate exchange of information and cooperation with duly constituted law enforcement agencies. Other labor-related work, as required.
- Establish labor agreement strategies in consultation with designated College senior management as well as the Board of Trustees Human Resources Committee.
- Provide advice and counsel on a wide range of personnel and employment issues including union grievances, unfair labor practices, sexual harassment, discrimination, wrongful termination, whistle-blower and contract claims under both federal and state laws.
- Handle all litigation, either directly as trial counsel or as liaison to insurance retained counsel, for matters covered by any applicable liability insurance.
- Advise and alert senior management regarding how existing and proposed legislation may affect current and emerging business and policy decisions of the College.
- Prompt availability and fully accessible at all times for College senior management, including telephone, in-office and on campus meetings.
- Much of the desired service requires particular expertise in higher education faculty related matters.

### **C. LAW FIRM QUALIFICATIONS & PRIMARY EVALUATION CRITERIA**

The firm's history should reflect doing business in New Jersey for at least 7 years in the specified service areas.

Demonstrated expertise in labor and employment matters with specific competency in public higher education and faculty related matters.

Significant experience in negotiating public sector bargaining unit contracts. The client base should include public higher education entities. The firm should be engaged in at least five active collective bargaining assignments each year to insure a current perspective in dealing with employee/employer issues.

The firm's experience should reflect successful resolution of difficult bargaining unit negotiations including – impasse, threat of strike, actual strike, etc.

The firm should explain its particular expertise in negotiating employee benefits including health care benefits.

The staffing of this practice area should include at least three senior attorneys, one of whom should be a partner.

The firm should disclose its top 10 clients (in terms of hours/billing) over the past 5 years and the nature of services rendered.

### **D. CONFLICT OF INTEREST**

The College and its Board are very sensitive to conflict of interest matters. The proposal must address the firm's policy and procedure for addressing conflict of interest issues. The firm must disclose any current client representation or relationships of partners that might give the appearance of a conflict. An appropriate Board of Trustees committee will evaluate whether these situations are an impediment to objective representation of the College.

### **E. PRIMARY REPRESENTATIVE QUALIFICATIONS**

The firm's primary representative:

- Shall be a partner of sufficient standing to effectively call upon and utilize the resources of the law firm
- Must have knowledge and experience representing public institutions of higher education in New Jersey

- Must have significant experience negotiating labor contracts for public education entities, preferably higher education institutions. Must be actively engaged in bargaining unit negotiations throughout the year.
- Must have strong interpersonal and communication skills and demonstrate the ability to work with a diverse organization
- Identifies and discloses potential conflicts of interest and obtains consent where appropriate
- Responds in a timely fashion

#### **F. COMPENSATION AND BILLING**

The selected law firm shall provide a monthly itemized billing statement. The statement must include a description of the subject matter of work, the attorney or legal assistant/paralegal, the time spent and the hourly rate for the particular individual. The fee will be paid monthly within 30 days of invoice receipt.

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