

City of Albany, New York

REQUEST FOR PROPOSALS FOR THE PROVISION OF LITIGATION COUNSEL SERVICES

Proposal Number 2009-23
December 9, 2009

SECTION 1: PURPOSE

- 1.1 The City of Albany hereby requests proposals from qualified firms and attorneys to provide legal counsel and representation to the City of Albany with regard to litigation involving the defense of the City, its various officers, employees, departments, and related boards and agencies in matters primarily concerning: (1) federal suits alleging the violation of civil rights; and/or (2) general civil suits alleging tortious actions or omissions; and/or (3) other legal matters that may from time to time arise involving municipal law. The selected proposer(s) will be required to work closely with the City of Albany Corporation Counsel's Office, its insurance carrier, and any claims managers and investigators assigned to each matter. Proposer(s) must have a demonstrated expertise in areas of litigation including, but not limited to, the defense of federal suits alleging the violation of civil rights and the defense of general civil suits alleging tortuous actions or omissions. Minority Business Enterprises and Women's Business Enterprises are encouraged to submit proposals.

SECTION 2: RECEIPT OF PROPOSALS:

- 2.1 Four (4) copies of the Proposal must be received in a sealed envelope marked "Proposal Enclosed - Legal Services" no later than **Monday, December 28, 2009 at 1:00 p.m.** at the following address:

Michelina C. Wojton, Esq.
Assistant Corporation Counsel
City Hall - Room 106
24 Eagle Street
Albany, New York 12207
- 2.2 Each proposal submitted will be the document upon which the City of Albany will make its initial judgment regarding each proposer's qualifications, understanding of the City's scope and objectives, methodology, and ability to provide the requested services.
- 2.3 Those submitting proposals do so entirely at their own expense. There is no expressed or implied obligation by the City to reimburse any firm or individual for any costs incurred in preparing or submitting proposals, preparing or submitting additional information requested by the City, or participating in any selection interviews.
- 2.4 Submission of a proposal indicates an acceptance of the conditions contained in this Request for Proposals unless the submitted proposal clearly and specifically states otherwise.
- 2.5 The City of Albany reserves the right to accept or reject any and all proposals in whole or in part, to waive any and all informalities, and to disregard all non-conforming, non-responsive or conditional proposals.

- 2.6 The City of Albany reserves the right to award the litigation counsel services work, in whole or in part, to one or more firms and individuals.
- 2.7 Any award of the litigation counsel services work shall be conditioned on the execution of a formal written City of Albany professional services contract. The City of Albany reserves the right to revoke or rescind any award at any time prior to the full execution of a formal written contract.

SECTION 3: QUALIFICATIONS OF PROPOSER:

- 3.1 Each proposer shall provide a statement of qualifications including:
1. A brief history and description of the firm submitting the proposal.
 2. Identification of the firm's professional staff members who will be assigned to this engagement if the firm's proposal is selected. Include a resume for each such professional staff member which details qualifications, years and types of experience, education, accomplishments, etc. Specify the extent of the availability and commitment of each such professional staff member who will be assigned to this engagement if the firm's proposal is selected. Specify whether each staff member assigned to this engagement is admitted to all of the courts of the State of New York and the United States District Court, Northern District of New York.
 3. At least three (3) references, including addresses and telephone numbers.
 4. A signed cover letter from a person within the firm who is authorized to make representations on behalf of the firm and to bind the firm.
 5. A summary of the firm's experience in providing legal defense services to municipalities and their insurance carriers.
 6. Any additional information which would serve to distinguish the firm from other firms submitting proposals.
- 3.2 The City of Albany may make such inquiries it deems necessary to determine the ability of each proposer to perform the services contemplated by this RFP. Proposers shall promptly furnish all information and data for this purpose as may be subsequently requested by the City of Albany.

SECTION 4: SCOPE OF SERVICES:

- 4.1 The selected proposer(s) will be required to act as defense counsel to the City in connection with federal claims or suits, and/or general civil suits alleging tortious actions or omissions against which may be filed or which may be threatened against the City, its officers, employees, departments, and related boards and agencies.
- 4.2 Duties to be performed by the selected proposer(s) include, but are not limited to, the following: Process claims in preparation for potential litigation; review and organize files for trial; file appropriate motions and supporting papers; prepare witnesses to testify at trial; jury selection; and conduct trials. In addition, the successful proposer(s) will be expected to render legal advice and any legal opinions necessary with regard to the legal issues related to the claims, litigation, or other matters.

- 4.3 The selected proposer(s) will be required, when applicable, to coordinate its services with the City's insurance carrier, claims managers, and the Corporation Counsel's Office and provide status reports on all claims and complete any and all documentation, reports, etc. as may be required by the City's insurance carrier, in a form required by the insurance carrier. In addition, the selected proposer(s) will be required to provide to the Corporation Counsel's Office, the City's insurance carrier, and its claims managers copies of all pleadings, documents, etc.
- 4.4 All work to be performed by the selected proposer(s) shall be performed under the supervision of a partner of the law firm, with all trial work to be performed by said partner, unless otherwise agreed to by the Corporation Counsel's Office. Court appearances, hearings, trial work, or other official appearances on behalf of the City are to be conducted by said partner, unless otherwise agreed to by the Corporation Counsel's Office.
- 4.5 Proposer(s) shall not represent any existing or future clients in any proceedings against the City where a conflict of interest may exist without first obtaining written consent from the City waiving said conflict of interest.

SECTION 5: CONTRACT:

- 5.1 The selected proposer(s) will be required to execute a contract with the City of Albany. A sample City of Albany Professional Services Agreement is available upon request. The contract period for the service contemplated by this RFP will be two (2) years and shall commence on or about January 1, 2010. The City of Albany will have the right to extend the agreement for two (2) additional one (1) year terms. The City also reserves the right to terminate the contract at any time, with or without cause, upon thirty (30) days written notice.

SECTION 6: COST PROPOSAL:

- 6.1 Each cost proposal must state an "hourly" fee structure for the services contemplated herein. Each cost proposal must detail the hourly rates to be billed for work performed by partners, senior associates, junior associates, law clerks, and paralegals. The submission of a "blended" rate is permissible.
- 6.2 Each proposal shall clearly set forth in detail any and all additional expenses for which reimbursement is expected. The proposal must, however, provide a guarantee that no additional fees will be charged to the City without prior written consent of the City.

SECTION 7: PROPOSAL EVALUATION:

- 7.1 Proposals shall remain valid until the execution of a contract by the City of Albany.
- 7.2 Proposals shall be examined and evaluated by the Corporation Counsel's Office to determine whether each proposal meets the requirements of this RFP. A recommendation will be made for a contract award based on the following criteria:
- * The proposer's demonstrated capabilities, professional qualifications, and experience in municipal defense litigation.
 - * The wherewithal of the proposer(s) to render the requested services to the City in a timely fashion.
 - * Total proposed cost.

* Completeness of the proposal.

- 7.3 The selection of a proposal will not be based solely on a monetary evaluation. There will also be an evaluation of the Proposer's understanding of the work required and approach to this project with considerable weight being given to experience in the areas required and the track record of the proposer(s).

SECTION 8: ALTERNATIVES:

- 8.1 Proposals may include alternative matters or items not specified or requested in this RFP. However, all such alternative matters or items must be listed separately from the proposal and the cost(s) thereof must be separate and itemized.

SECTION 9: INDEMNIFICATION:

- 9.1 The selected proposer will be required to defend, indemnify, and save harmless the City of Albany, its employees and agents, from and against all claims, damages, losses and expenses (including without limitation, reasonable attorney's fees) arising out of, or in consequence of, any negligent or intentional act or omission of the selected proposer, its employees or agents, to the extent of its or their responsibility for such claims, damages, losses, and expenses.

SECTION 10: SPECIFICATION CLARIFICATION:

- 10.1 All inquiries with respect to this Request for Proposals shall be directed to the City of Albany Corporation Counsel's Office as follows:

Michelina C. Wojton, Esq.
Assistant Corporation Counsel
City Hall - Room 106
24 Eagle Street
Albany, NY 12207

- 10.2 All questions about the meaning or intent of the specifications shall be submitted in writing to the individual referenced above in Section 10.1. Replies will be issued by Addenda mailed or delivered to all parties recorded as having received the proposal documents. Questions received less than four (4) business days prior to the date of submission of proposals will not be answered. Only questions answered by formal written Addenda will be binding. Oral or other interpretations or clarifications will be without legal effect.

SECTION 11: MODIFICATION AND WITHDRAWAL OF PROPOSALS:

- 11.1 Proposals may be modified or withdrawn by an appropriate document duly executed (in the manner that a proposal must be executed) and delivered to the place where proposals are to be submitted at any time prior to the opening of proposals.
- 11.2 If within twenty-four (24) hours after the proposals are opened, any proposer files a duly signed written notice with the City and promptly thereafter demonstrates to the reasonable satisfaction of the City that there was a material and substantial mistake in the preparation of its proposal, that proposer may withdraw its proposal and the proposal security, if any, will be returned. Thereafter, that proposer will be disqualified from further proposal on the work.

SECTION 12: INSURANCE AND SECURITY REQUIREMENTS:

- 12.1 The selected proposer will be required to procure and maintain at its own expense the following insurance coverage:
- (a) **Workers' Compensation and Employer's Liability Insurance:** A policy or policies providing protection for employees in the event of job-related injuries.
 - (b) **General Liability Insurance:** A policy or policies of comprehensive general liability insurance with limits of not less than \$1,000,000.
 - (c) **Professional Malpractice Insurance:** A policy or policies with limits of not less than \$1,000,000. The professional malpractice insurance must be issued by an insurer licensed to do business in the State of New York and must have an A.M. Best rating of not less than "A".
- 12.2 Each policy of insurance required shall be in form and content satisfactory to the Corporation Counsel, and shall provide that:
- (a) The City of Albany is named as an additional insured on a primary and non-contributing basis.
 - (b) The insurance policies shall not be changed or cancelled until the expiration of thirty (30) days after written notice to the City of Albany Corporation Counsel's Office.
 - (c) The insurance policies shall be automatically renewed upon expiration and continued in force unless the City of Albany Corporation Counsel's Office is given sixty (60) days written notice to the contrary.
- 12.3 No work shall be commenced under the contract until the selected proposer has delivered to the Corporation Counsel or his designee proof of issuance of all policies of insurance required by the Contract to be procured by the selected proposer. If at any time, any of said policies shall be or become unsatisfactory to the City, the selected proposer shall promptly obtain a new policy and submit proof of insurance of the same to the City for approval. Upon failure of the selected proposer to furnish, deliver and maintain such insurance as above provided, this Contract may, at the election of the City, be forthwith declared suspended, discontinued or terminated. Failure of the selected proposer to procure and maintain any required insurance, shall not relieve the selected proposer from any liability under the Contract, nor shall the insurance requirements be constructed to conflict with the obligations of the selected proposer concerning indemnification.

SECTION 13: NON-COLLUSIVE PROPOSAL CERTIFICATE AND ACKNOWLEDGMENT:

- 13.1 Each proposer shall complete and submit with its, his, or her proposal the "Non-Collusive Proposal Certificate" and the "Acknowledgment" found on the two (2) pages which follow this page.

**NON-COLLUSIVE PROPOSAL CERTIFICATE
PURSUANT TO NEW YORK STATE GENERAL MUNICIPAL LAW SECTION 103-D**

By submission of this proposal, each proposer and each person signing on behalf of any proposer certifies, and in the case of a joint proposal each party thereto, certifies as to its own organization, under penalty of perjury, that to the best of knowledge and belief:

- (1) The prices in the proposal have been arrived at independently, without collusion, consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other proposer or with any competitor;
- (2) Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the proposer and will not knowingly be disclosed by the proposer prior to the opening, directly or indirectly, to any other proposer or to any competitor; and
- (3) No attempt has been made or will be made by the proposer to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

(date)

(signature)

(print name and title)

(name of firm)

ACKNOWLEDGMENT BY PROPOSER

If Individual or Individuals:

STATE OF _____)
COUNTY OF _____) **SS.:**

On this _____ day of _____, 20____, before me personally appeared _____ to me known and known to me to be the same person(s) described in and who executed the within instrument, and he (or they severally) acknowledged to me that he (or they) executed the same.

Notary Public, State of _____
Qualified in _____
Commission Expires _____

If Corporation:

STATE OF _____)
COUNTY OF _____) **SS.:**

On this _____ day of _____, 20____, before me personally appeared _____ to me known, who, being by me sworn, did say that he resides at (give address) _____; that he is the (give title) _____ of the (name of corporation) _____, the corporation described in and which executed the above instrument; that he knows the seal of the corporation, and that the seal affixed to the instrument is such corporate seal; that it was so affixed by order of the board of directors of the corporation, and that he signed his name thereto by like order.

Notary Public, State of _____
Qualified in _____
Commission Expires _____

If Partnership:

STATE OF _____)
COUNTY OF _____) **SS.:**

On this _____ day of _____, 20____, before me personally came _____, to me known to be the individual who executed the foregoing, and who, being duly sworn, did depose and say that he/she is a partner of the firm of _____ and that he/she has the authority to sign the same, and acknowledged that he/she executed the same as the act and deed of said partnership.

Notary Public, State of _____
Qualified in _____
Commission Expires _____