



State of West Virginia
Office of the Attorney General

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Request for Proposal for Legal Services To Represent West Virginia Public Broadcasting

West Virginia Public Broadcasting (hereinafter "WVPB") has requested legal representation to assist with two separate legal matters:

- 1) Meeting Federal Communications Commission ("FCC") license requirements and Federal Aviation Administration ("FAA") regulations for WVPB's fifteen (15) radio and twelve (12) television transmitters and translators located throughout the state hereinafter "FCC & FAA legal & regulatory issues"; and
- 2) Assisting with the maintenance of tower leases involving WVPB's statewide radio and television network (hereinafter "tower lease issues").

The Office of the Attorney General is seeking separate proposals for each of the matters set forth above, and invites qualified law firms or attorneys to submit a proposal or proposals on or before September 27, 2013, to assist with the Office of the West Virginia Attorney General's representation of WVPB. Selection of a winning proposal or proposals, if any, will be made as soon as possible after that date with representation to commence forthwith upon selection.

Background

WVPB is in need of legal assistance with two distinct telecommunications matters (1) FCC and FAA legal & regulatory issues; and, (2) complex leasing issues relating to telecommunication towers.

More specifically, WVPB is seeking an attorney or law firm who can assist it with meeting the FCC license requirements and FAA regulations on the company's fifteen (15) radio and twelve (12) television transmitters and translators throughout the state. Selected counsel, if any, would assist WVPB to obtain proper permissions from the FCC regarding the construction of new towers or modification of existing ones. Counsel would also help ensure compliance with FCC guidelines as they relate to issues including, but not limited to, strength of signal and special reporting requirements regarding content.

As a separate matter, WVPB also requires legal assistance with the leases associated with its towers. WVPB currently has subleases with 18 entities that rent space on its towers, while also leasing property for its towers from twenty (20) different landowners. These leases are critical to the organization's operations, and must be maintained accordingly.

Accordingly, WVPB seeks particular experience as follows:

- Significant familiarity and practice with telecommunications and regulatory laws;
- Substantial familiarity and interaction with the FCC;
- Awareness of FAA regulation mandates and updates; and,
- Ability to provide said legal services on a time-sensitive basis.

Scope of Representation

The client is WVPB. An attorney or firm, if any, will be selected for each of the separate legal matters set forth above, and will work in close coordination with WVPB, as well as the organization's legal counsel provided by the Attorney General's Office, to provide the legal services in question for a period of one-year.

Conflict of Interest Information

In addition to disclosing any prior representation of WVPB, the bidding firm or attorney should disclose matters where they have previously been adverse to WVPB as well as any other matter(s) that could impact a conflict analysis for this potential client.

Your Proposal

No specific form is required of your proposal, but it should address those factors identified in the Attorney General's Outside Counsel Policy.¹

¹ Pursuant to the Outside Counsel Policy, the Attorney General shall consider the following factors when determining the most competitive proposal for legal services:

- Whether the private attorneys possess the requisite skills and expertise needed to handle the legal matters in question;
- Whether the private attorneys possess requisite staffing and support to handle the scope of the litigation or matter;
- Whether the private attorneys, or any members of the private attorneys' law firm, have been subject to reprimand by the West Virginia State Bar, or other entities, for unethical conduct;
- Whether the private attorneys have been peer rated, and if so, what peer ratings they have received, along with any other recognitions or awards for legal services;
- The estimated fees, costs and expenses of the private attorneys to perform the legal services requested;
- The willingness of the private attorneys to enter into alternative billing arrangements;
- Whether the private attorneys are in compliance with all applicable laws of the State of West Virginia;
- Any potential conflicts of interest between the private attorneys and the State;
- Any relevant input from the state entity client, if applicable, regarding the needed legal services; and
- Any such other relevant factors as may be identified by the Attorney General.

WVPB will be contracting separately for each of the legal services requested. As such, attorneys or law firms wishing to bid on both matters shall prepare proposals that separately address the FCC & FAA legal & regulatory issues and the tower lease issues accordingly. Any such proposals should clearly specify the legal matter for which the attorney or law firm is seeking appointment: (1) FCC & FAA legal & regulatory issues; or, (2) tower lease issues.² Attorneys or law firms seeking to address both requests for counsel should provide proposals that address each of the legal matters separately, so that WVPB and the Office of the Attorney General can analyze the proposals accordingly.

Your proposal should address your experience and demonstrated skill (via references, example documents, and/or a descriptive narrative) in the following practice areas:

1. Telecommunications and regulatory law (for the “FCC & FAA legal & regulatory issues”);
2. Real estate and lease transactions (for the “tower lease issues”); and
3. Any other legal experience relevant to this potential representation.

In addition, your proposal should disclose any prior legal work you have performed for WVPB, as well as any experiences that may particularly qualify you for the search process.

If you propose to bill hourly rates, please state them separately for each attorney or paralegal to be assigned to this representation and indicate the approximate proportion of total time that will be billed at each rate. Computerized legal research tools, such as WESTLAW or LEXIS, may not be billed as an expense. Please state your per-unit costs (if any) for expenses such as copying; whether you will bill for travel expenses and at what rate; and whether and how you bill for any additional attorney-time while traveling. Representations made in your proposal will supersede any conflicting terms that are less favorable to the client appearing in any written contract or invoice.

Evaluation and Acceptance

Your proposal will be evaluated by the Office of the Attorney General in consultation with WVPB. Any and all proposals may be rejected. Your proposal should be addressed to the Office of the Attorney General and emailed to rfpresponse@wvago.gov. This Request for Proposal shall be known as RFP # 012, and any and all correspondences relating to this Request for Proposal should reference RFP # 012. All proposals must be received by email no later than Friday, September 27, 2013, at 5:00 p.m. Any questions regarding this request for proposal should likewise be emailed to rfpresponse@wvago.gov.

Retention of the selected attorney or firm, if any, is conditioned upon execution of a written contract approved by the Attorney General. In no event will any such contract preclude the termination of the representation at any time by official action of WVPB.

Thank you for considering this Request for Proposal.

² Such proposals should also take care to set forth the anticipated rates and costs for each matter separately.