



State of West Virginia
Office of the Attorney General

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Request for Proposal for Legal Services To Represent the West Virginia Broadband Enhancement Council

The West Virginia Broadband Enhancement Council (hereinafter “The Broadband Council”) has requested legal representation to assist with meeting the requirements of House Bill 3093, which established requirements for the development of plans, processes, policies and procedures to be employed and dedicated to extend broadband access in West Virginia (“The State”); as outlined in West Virginia Code 31G-1-1, et seq.

Qualified law firms or attorneys are invited to submit a proposal on or before January 15, 2018, to assist with the Office of the West Virginia Attorney General’s (WVAGO) representation of the Broadband Council. 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

The Broadband Council is seeking an attorney or law firm for legal services specific to the development of policies, plans, processes and procedures to be employed and dedicated to extending broadband access to West Virginians. The Broadband Council consists of 13 voting members, as well as two advisory members from the West Virginia Senate and two advisory members from the West Virginia House of Delegates. The Broadband Council is created under the West Virginia Department of Commerce for administrative, personnel and technical support.

Specifically, the Broadband Council is seeking legal assistance with telecommunications matters involving the development of telecommunications policies; and in the development, financing, procurement and construction of telecommunications and related projects. The Broadband Council is also in need of expertise and advice concerning legal and regulatory requirements of State and Federal agencies, including but not limited to, the Federal Communications Commission (FCC), the Federal Highway Administration (FHWA) and other applicable agencies.

Accordingly, the Broadband Council seeks legal experience and services in the following areas as they relate to the implementation of House Bill 3093 and the expansion of broadband in West Virginia:

- a. Significant familiarity and practice with State and Federal telecommunications law and related regulatory laws;
- b. Substantial familiarity with requirements of the FCC, FWHA and other applicable State and Federal regulatory agencies
- c. Assistance in the implementation of requirements outlined in West Virginia Code 31G-1-1, et seq.
- d. Experience in associated procurement, real estate and lease transactions;
- e. Assistance in the oversight of construction projects and special projects, including but not limited to, development and financing; review or drafting of documents, contracts and agreements; and contract management;
- f. Provision of advice and counsel on various telecommunication issues, including but not limited to: compliance matters, real or potential conflicts of interest, interpretation of statutes and legal interpretations as needed;
- g. Provision of other legal services as may be requested by the Broadband Council;
- h. Representation of the Broadband Council in litigation, as requested; and
- i. Provision of said legal services on a time-sensitive basis.

Scope of Representation

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

Conflict of Interest Information

In addition to disclosing any prior representation of the Broadband Council, the bidding firm or attorney should disclose matters where they have previously been adverse to the Broadband Council 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 and should also address your

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;

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

1. Telecommunications and related regulatory law; and,
2. Any other legal experience relevant to this potential representation.

In addition, your proposal should disclose any prior legal work performed for the Broadband Council, 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

All proposals will be evaluated by the Office of the Attorney General in consultation with the Broadband Council. Any and all proposals may be rejected. Submitted proposals 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 # 63, and any and all correspondences relating to this Request for Proposal should reference RFP # 63. All proposals must be received by email no later than January 15, 2018, 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 the WVAGO or the Broadband Council.

Thank you for considering this Request for Proposal.

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- 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.