



State of West Virginia
Office of the Attorney General

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Request for Proposal for Legal Services

For representation of The West Virginia Office of Broadband

The West Virginia Office of Broadband (hereinafter "The Office of Broadband") has requested legal representation to assist with various issues and projects 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 Wednesday, September 6, 2023, to assist with the Office of the West Virginia Attorney General's (WVAGO) representation of the Office of Broadband. 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 Office of Broadband is seeking an attorney or law firm for legal services specific to extending broadband access to West Virginians.

Specifically, the Office of Broadband is seeking legal assistance to aid in implementing and furthering the directives and goals of West Virginia Code 31G1-1, *et seq.* The Office of Broadband works closely with the Broadband Enhancement Counsel to implement the requirements of West Virginia Code 31G1-1, *et seq.*

Accordingly, the Office of Broadband seeks legal experience and services in the following areas as they relate to 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 Federal Communications Commission (FCC), and other applicable State and Federal regulatory agencies;
- c. Assistance in the administration of state and federal broadband funding programs;
- d. Experience practicing before the West Virginia Public Service Commission;

- e. Assistance in the implementation of requirements outlined in West Virginia Code 31G1-1, et seq.; and
- f. Provision of advice and counsel on various telecommunication issues, including but not limited to: Coordination with state and federal agencies, compliance matters, preparation of forms and agreements, real or potential conflicts of interest, interpretation of statutes and legal interpretations as needed.

Scope of Representation

The client is the Office of Broadband. 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 Office of Broadband, 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. The Office of Broadband is looking for counsel that can generally advise the office on telecommunications issues and also represent the office in any potential litigation, whether before the WVPSC or in state or federal court.

Conflict of Interest Information

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

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.

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

1. Telecommunications and related regulatory law; and,
2. Administrative and compliance requirements for state and federal broadband infrastructure programs, including working knowledge of 2 CFR Part 200;
3. Litigation experience, especially before the WVPSC and in federal court; and,
4. Any other legal experience relevant to this potential representation.

In addition, your proposal should disclose any prior legal work performed for the Office of Broadband, 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 Office of Broadband. 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 # 122, and any and all correspondences relating to this Request for Proposal should reference RFP # 122. All proposals must be received by email no later than Wednesday, September 6, 2023, 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 Office of Broadband.

Thank you for considering this Request for Proposal.