



State of West Virginia

John B. McCuskey
Attorney General

Office of the Attorney General
State Capitol, Bldg. 1, Rm E-26
1900 Kanawha Blvd. E
Charleston, WV 25305

(304) 558-2021
Fax (304) 558-0140
www.wvago.gov

Request for Proposal for Legal Services To Represent the Office of the West Virginia Attorney General

The Office of the West Virginia Attorney General (“WVAGO”) is seeking legal representation to assist with the investigation, evaluation, and prosecution of claims against entities involved in the administration of health and prescription coverage, including, but not limited to, Pharmacy Benefit Managers (“PBMs”) in West Virginia.

Qualified law firms or attorneys are invited to submit a proposal on or before 5:00 p.m., Tuesday, February 11, 2025, to assist the WVAGO in this matter. The winning proposal, if any, will be selected as soon as possible after that date with representation to commence forthwith.

Background

The provision of health and prescription coverage in a fair and efficient manner is of the utmost importance to the citizens of West Virginia. To that end, the WVAGO seeks the assistance of a qualified law firm to aid the Office in investigating the practices employed by entities who administer health and prescription services in West Virginia. Further, the WVAGO seeks experienced, qualified, law firms to evaluate those practices to determine if they comply with all applicable state and federal statutes and regulations. Finally, the WVAGO may require the assistance of the engaged law firm in the prosecution of any legal action to redress potential violations of state and federal statutes and regulations.

Accordingly, the WVAGO seeks particular experience as follows:

- Expertise in investigating and evaluating violations of state and federal law related to the administration of health and pharmacy services;
- Expertise in investigating and evaluating violations of the West Virginia Consumer Credit Protection Act;
- Significant experience litigating complex claims;
- Experience and ability to handle complex civil discovery, including, but not limited to, extensive electronic discovery; and

- Familiarity with the administration of health and pharmacy benefits, including, but not limited to, PBMs.

Scope of Representation

The client is the WVAGO. The attorney or firm, if any, that is selected as a result of this process will work in close coordination with the WVAGO, to provide legal services as set forth above.

Conflict of Interest Information

The attorney or firm must disclose any prior representation adverse to the WVAGO, as well as any matters that may create a potential or actual conflict, including, but not limited to, any current or former representations of PBMs.

Representation of Other Public and Private Clients

In addition to the information provided in response to the above Conflict of Interest Information please provide the following information:

1. A list of all matters the attorney or firm is or was retained to represent another state for a similar legal issue, against the same parties, or which advance(d) the same legal theories.
2. A list of all matters the attorney or firm is or was retained to represent any political subdivision of West Virginia (or another state) for a similar legal issue, against the same parties, or which advance(d) the same legal theories.
3. A list of all matters the attorney or firm is or was retained to represent any private entity for a similar legal issue, against the same parties, or which advance(d) the same legal theories.

For each of the above matters please provide the outcome of the litigation.

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

- Expertise in investigating and evaluating violations of state and federal law related to the administration of health and pharmacy services;
- Expertise in investigating and evaluating violations of the West Virginia Consumer Credit Protection Act;
- Significant experience litigating complex claims;
- Experience and ability to handle complex civil discovery, including, but not limited to, extensive electronic discovery; and
- Familiarity with the administration of health and pharmacy benefits, including, but not limited to, PBMs.

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.

Any contingency fee agreement agreed upon will be governed by the requirements of W.Va. Code §5-3-3A.

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.

Evaluation and Acceptance

Your proposal will be evaluated by the Office of the Attorney General. 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](mailto:rfpresponse@wvago.gov). This Request for Proposal shall be known as RFP # 136, and any and all correspondences relating to this Request for Proposal should reference RFP # 136. All proposals must be received by email no later than 5:00 p.m. Tuesday, February 11, 2025. Any questions regarding this request for proposal should likewise be emailed [to rfpresponse@wvago.gov](mailto: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.

Thank you for considering this Request for Proposal.