



State of West Virginia

Office of the Attorney General

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Attorney General

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Request for Proposal for Legal Services
To Represent the Office of the West Virginia Attorney General, West Virginia Board of Pharmacy, and Insurance Commissioner

The Office of the West Virginia Attorney General, West Virginia Board of Pharmacy, and the Insurance Commissioner (hereinafter “Defendants”) are seeking legal representation to represent them in litigations styled: *Pharmaceutical Research and Manufacturers of America v. Morrissey et al*, Civil Action No. 2:24-cv-00271; *Novartis Pharmaceuticals Corp. v. Morrissey et al*, Civil Action No. 2:24-cv-0272; *Astrazeneca Pharmaceuticals LP v. McVey et al.*, Civil Action No. 2:24-cv-290; and *AbbVie Inc. et al, v. Morrissey et al*, Civil Action No. 2:24-cv-0298.

Qualified law firms or attorneys are invited to submit a proposal on or before Friday, June 28, 2024, to provide this needed legal representation. 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 Defendants are in need of counsel experienced in the defense of challenges to state statutes on preemption and constitutional grounds.

Scope of Representation

The clients are the Office of the West Virginia Attorney General, West Virginia Board of Pharmacy, and the Insurance Commissioner. An attorney or firm, if any, will be selected for the legal matter set forth above, and will work in close coordination with the WVAGO, to provide the legal services in question.

Conflict of Interest Information

In addition to disclosing any prior representation of the Office of the West Virginia Attorney General, West Virginia Board of Pharmacy, and its members, and the Insurance Commissioner, the bidding firm or attorney should disclose matters where they have previously been adverse to the Office of the West Virginia Attorney General, West Virginia Board of

Pharmacy, and its members, and the Insurance Commissioner; and any matter(s) that could impact a conflict analysis for this potential client. Retention of any selected firm(s) will be subject to completion of further conflict analyses specific to the scope of work to be performed for the Defendants.

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:

1. Preemption law, with an emphasis in federal preemption in the manufacturing, distribution, and sale of pharmaceuticals;
2. Constitutional challenges to enacted statutes; and
3. General Litigation.

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.

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 West Virginia Attorney General, West Virginia Board of Pharmacy, and the Insurance Commissioner. 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 # 131, and any and all correspondences relating to this Request for Proposal should reference RFP # 131. All proposals must be received by email no later than Friday, June 28, 2024, 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 the 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.