



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

The Office of the West Virginia Attorney General (hereinafter "WVAGO") is seeking legal assistance on consumer protection and antitrust legal matters.

More specifically, the WVAGO seeks counsel to assist staff with an ongoing investigation and review of potential violations of state consumer protection and antitrust statutes relating to the potentially unfair and deceptive practices in the distribution of opioid products and other ancillary issues involving McKesson Corporation and potentially other corporations. Counsel would also assist the WVAGO with a related enforcement action that was filed on September 22, 2014.

Qualified law firms or attorneys are invited to submit a proposal on or before October 3, 2014, to assist the WVAGO in this matter. Selection of a winning proposal, if any, will be made as soon as possible after that date with representation to commence forthwith upon selection.

Background

The WVAGO is in need of legal assistance with respect to its investigation of potential violations of the West Virginia Consumer Credit & Protection Act, as well as the Unfair Practices Act, by McKesson Corporation and potentially other corporations. Outside counsel will be expected to assist the WVAGO with its investigation of potential consumer protection and antitrust violations, and participate in any potential litigation that may ensue as a result of the investigation. The WVAGO seeks particular experience as follows:

- Significant familiarity and practice with West Virginia consumer protection and antitrust laws;
- Experience conducting investigations related to the development of litigation;
- General litigation background and experience; and
- Pharmaceutical and health care regulations.

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 WVAGO staff and attorneys to assist with the legal services in question.

Conflict of Interest Information

The attorney or firm should disclose any prior or current representations of (1) the WVAGO and (2) apparent potential conflict(s) with your existing or former clients, including, but not limited to, any previous representation of McKesson Corporation and any associated entities. The final selection of counsel, if any, is contingent upon the successful completion of a conflicts of interest analysis.

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. Consumer protection and antitrust laws;
2. General litigation; and,
3. Pharmaceutical and health care regulations.

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.

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

Unless an alternative billing method is proposed, selected counsel, if any, will be compensated in accordance with the fee arrangements set forth in Section I of the Attorney General's Outside Counsel Policy. If you propose to bill hourly rates, please state them separately for each attorney or paralegal to be assigned to this representation. Please 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 if your proposal for billing is different than the fee arrangements set forth in Section I. 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 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 WVAGO. 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 # 016, and any and all correspondences relating to this Request for Proposal should reference RFP # 016. All proposals must be received by email no later than Friday, October 3, 2014, 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.