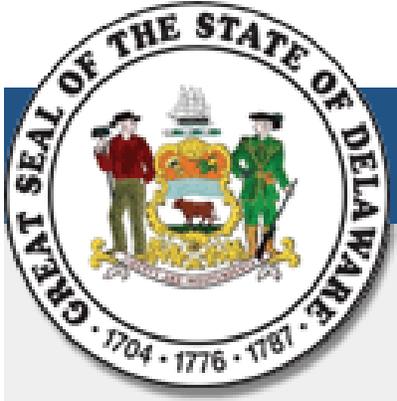


# State of Delaware



## **Department of Justice**

Carvel State Office Building  
820 N. French Street  
Wilmington, DE 19801  
Telephone (302) 577-8400

### **Delaware Department of Justice Request for Proposals for Special Legal Counsel**

**Proposal Number: DOJ - 08052015**

**Proposal Deadline: August 21, 2015; 3:00 PM EST**

**REQUEST FOR PROPOSALS FOR  
SPECIAL LEGAL COUNSEL  
ISSUED BY THE DEPARTMENT OF JUSTICE  
OF THE STATE OF DELAWARE**

**Executive Summary**

The Delaware Department of Justice (“DOJ”), on behalf of the State agencies it represents, is issuing this Request for Proposals (“RFP”). The DOJ seeks to engage one law firm to act as Special Legal Counsel (“Special Legal Counsel”) to offer legal assistance in negotiation of IT contracts and IT contract litigation, provide strategic legal advice regarding interpretation of complex contracts, as well as guidance as to best practices in IT procurement.

DOJ anticipates that, after conducting interviews, it will select one firm to act as Special Legal Counsel, consistent with the scope of this RFP as it relates to IT contracting, IT contract litigation and best practices in IT procurement. DOJ reserves the right to award multiple contracts if it determines that such an award is in the best interest of the State of Delaware (“State”).

This RFP will define the scope of the work to be performed, the requirements the Firm (“Firm”) must address, the method for response and the administrative requirements that must be followed. DOJ will advise potential Firms of changes to any dates as may be necessary. DOJ also reserves the right to modify and/or cancel this solicitation at any time during the RFP process.

**RFP Schedule**

<b>ID</b>	<b>Date/Time</b>	<b>Activity</b>
<b>1</b>	August 14 2015	RFP issued, posted on the State’s website at <a href="http://bids.delaware.gov">http://bids.delaware.gov</a> and the Attorney General’s website at <a href="http://attorneygeneral.delaware.gov">http://attorneygeneral.delaware.gov</a>
<b>2</b>	<b>August 21, 2015; 3:00 pm EST</b>	<b>RFP Response due date</b>
<b>3</b>	August 31, 2015	Selected Firms’ oral presentations and interviews (subject to change)

All interested firms should submit: (a) an original and 5 bound copies of their proposals (“Proposal”) and (b) one electronic version to the designated contact person. Proposals may be mailed or hand-delivered for receipt **no later than 3:00 p.m. EST on August 21, 2015** (“Closing Date”). All timely Proposals become the property of the State. Requests for extensions of the Closing Date will not be granted. Any request for modification must be received and approved prior to the Closing Date. Timely delivery of any Proposal is the Bidder’s responsibility. Any Proposal received after 3:00 p.m. on the Closing Date will be late and will not be considered. The Proposals may be delivered by Express Delivery (e.g., FedEx, UPS, etc.), U.S. Mail, or by hand. Proposals shall be submitted to:

State of Delaware  
Department of Justice  
RFP: Special Legal Counsel – Proposal Number: DOJ - 08052015  
Carvel State Office Building  
820 North French Street, 6<sup>th</sup> Floor  
Wilmington, DE 19801

Each proposal must be accompanied by a transmittal letter that briefly summarizes the firm's interest in providing the required professional services. The transmittal letter must also clearly state and justify any exceptions to the requirements of the RFP that the applicant may have taken in presenting the Proposal. DOJ reserves the right to deny any and all exceptions taken to the RFP requirements.

The cost of preparing Proposals will be borne solely by the Bidders. Proposals shall address all the questions posed by DOJ in the order in which they appear in this request.

RFP Designated Contact:

Please submit all questions and requests for information in writing to:

Mary Page Bailey  
Delaware Department of Justice  
Carvel State Office Building  
820 North French Street, 6<sup>th</sup> Floor  
Wilmington, DE 19801

Direct Dial: (302) 577-8361  
Fax: (302) 577-6630  
Email: marypage.bailey@state.de.us

All questions submitted, along with answers, will be consolidated into a single Q&A document. The source of the questions will not be disclosed in the document. The Q&A document will be posted on the State's website at <http://bids.delaware.gov>, and the Attorney General's website at <http://attorneygeneral.delaware.gov>.

## **1.0 GENERAL INFORMATION**

### **1.01 Project Scope**

This RFP seeks to retain the services of one law firm to act as Special Legal Counsel to provide advice and legal representation with respect to complex contract negotiation with the ability to address IT contract litigation as well as offer guidance as to best practices in IT procurement as more specifically detailed below.

The Firm should be prepared to offer the following services:

- A. **General.** The Firm will be expected to represent state agencies as identified by the DOJ regarding IT contracts including best practices, negotiations and litigation. Any Firm selected to provide an Oral Presentation will be required to sign a Non-Disclosure Agreement. (Attachment "A"). Once executed, the Firms will be provided with details for the conflicts check.
- B. Timing.** As there are on-going needs relating to the scope of this RFP, the selected firm should be able to prepare quickly.

### **1.02 Procedures**

Selected Special Legal Counsel will work closely with an assigned DAG. All legal services are to be provided only at the request of the DAG. From time to time, the DAG may refer the Special Legal Counsel to work directly with an agency's staff, as necessary to successfully represent that agency's interests. All advice is to be provided directly to the DAG or individuals identified and/or designated by the DAG.

## **2.0 MINIMUM REQUIRED QUALIFICATIONS**

### **2.01 Experience and Reputation**

- A. The law firm must have been in business at least five (5) years.
- B. The law firm should have at least five (5) or more years prior experience in IT contracting and IT contract litigation; and
- C. The law firm must designate, as a member of the team proposed for this representation, a lead attorney licensed to practice law with seven (7) or more years experience in complex contract negotiation/litigation.
- D. The law firm should have experience representing government agencies.

### **2.02 Professional Liability Insurance**

The Firm shall agree to maintain in full force and effect during the term of the Contract professional liability insurance in an aggregate amount of not less than \$10 million. In order to satisfy this requirement, the Firm must

- A. Include a statement in its Proposal affirmatively responding to this requirement; and
- B. Include in its Proposal either:
  - 1. A certificate of insurance or letter from its insurer demonstrating that the Firm meets this requirement, or
  - 2. A commitment letter or other evidence, satisfactory to the DOJ, that the Firm will have such coverage as of the date the contract commences.

If the Firm is a joint venture, and one party of the joint venture does not presently have such liability insurance, this requirement may be satisfied if the members of the joint venture include in their proposal evidence, satisfactory to the DOJ, that all members of the joint venture will have such coverage as of the date the contract commences, either through actual insurance policies or an indemnity agreement by the properly insured firm, in form and substance acceptable to the State's Insurance Coverage Office.

### **2.03 Firm's Capacity**

Each Firm must demonstrate the capacity to perform the type of services needed by DOJ described in Section 1.01 above. The Firm must be available at all times to render services required under the Contract.

## **3.0 TECHNICAL PROPOSAL FORMAT**

The following information shall be provided in each proposal in the order listed below. A Firm is expected to provide a response for each requirement listed in this RFP. Failure to respond to any request for information within this proposal may result in rejection of the proposal at the sole discretion of DOJ.

### **3.01 General**

All technical proposals shall be prepared with a concise description of the Firm's capabilities to satisfy the minimum qualifications of Section 2 above and the information requested under Section 3 below. The Firms should organize their proposals so that their responses correspond to the specific subsections to the extent possible without unnecessary repetition.

### **3.02 Required Information**

The proposal shall contain the information described below. Joint ventures should provide the information separately for each firm.

A. Firm's Prior Experience

1. General Experience and Information:

- i. Within the past three (3) years, have there been any significant developments in your firm such as changes in ownership or restructuring? Do you anticipate any significant changes in the future? Please describe.
- ii. Has your firm or a partner or an attorney in your firm's employ ever been disciplined or censured by any regulatory body? If so, describe the principal facts.
- iii. Within the last five (5) years, has your firm, or a partner or attorney in your firm, been involved in litigation or other legal proceedings relating to provision of legal services? If so, provide an explanation and indicate the current status or disposition.
- iv. Please describe your firm's backup procedures in the event one or more attorneys assigned to this matter should leave the firm. Identify the key attorney who will be the primary contact and lead counsel in providing services to DOJ and DSCYF, whose continuing status as such is an essential element of this contract.

2. Related Legal Experience:

Provide a brief description of areas of the law related to the purpose of this RFP in which the Firm has an expertise, including, but not limited to, IT contract law and other transactional and litigation practice areas. In addition, the Firm shall provide detailed information about any representation of any governmental agency, including the length of the engagement as well as details of the work performed as it is able to provide.

3. Special Experience:

Provide a brief description of the Firm's experience in the last five years representing or advising public sector clients in contract law issues

B. Conflicts of Interest.

1. In general, if a conflict of interest arises, the Firm should be willing to continue to represent the State, and be in a position to inform other existing or potential clients that they must find representation

elsewhere in particular situations. The Attorney General may entertain a request for a waiver of a Firm's representation of a party in litigation involving a unit of State government which is not being represented pursuant to the resulting RFP, but does not expect to waive any other conflicts. DOJ reserves the right, in its sole discretion, to select another approved law firm to work on a particular matter if a conflict is not resolved to its satisfaction.

Each Firm shall identify any conflicts of interest which may arise if the Firm serves as Special Legal Counsel and shall describe in its Proposal how it proposes to deal with such conflicts. Conflicts may arise not only from attorneys named on the contract but also from representation of parties involved in the transactions or other matters, by any other member of the firm, regardless of whether that attorney is in the same office or a different office of the firm.

2. Conflict Check System.

The Firm shall describe in detail its existing system for identifying conflicts of interest in undertaking new representations, and shall report on any conflicts with the arbitration panel members identified above. The description should include information about who maintains the records, how often the information is updated and at what stage of representation the check is made. The Firm shall provide a copy of its written conflicts policy or explain in detail why there is no written policy.

3. Potential Conflicts.

Prior to entering into any contract, the Firm shall provide assurances that potential conflicts have been discussed with other existing clients of the Firm who might be requested to engage other counsel for a specific transaction, and that those existing clients are amenable to such an inconvenience.

**4.0 PRICE PROPOSAL FORMAT**

**4.01 Billing Rates**

- A. Current billing rates for all attorneys assigned to represent State agencies pursuant to this RFP;
- B. Current billing rates for all para-professionals assigned to represent State agencies pursuant to this RFP;
- C. All billing shall be in accordance with the DDOJ Outside Counsel Billing Policy. ("Attachment B").

#### **4.02 Alternative Pricing Proposals**

Although each Firm is required to submit a price proposal containing the information set forth in Part 4.01, DOJ will also accept proposals for alternative billing arrangements, which enhance the value and efficiency of the services to be provided. The Firm may submit a statement, not more than one page in length, with respect to any alternative pricing proposal.

### **5.0 EVALUATION OF PROPOSALS**

The DOJ shall evaluate the proposals. During the evaluation process the DOJ may, at its discretion, request any or all firms to make oral presentations. Such presentations will provide firms with an opportunity to answer questions about a firm's Proposal. Not all firms may be asked to make such oral presentations.

#### **5.01 Selection Criteria**

The selection of the firm to provide legal services will be based upon the following factors in descending order of importance:

- A. Experience of the firm and the individual attorneys representing clients in complex contract negotiations and litigation, including IT contracts;
- B. Experience of the firm and the individual attorneys representing governmental agencies generally;
- C. Knowledge of the firm and the individual attorneys representing clients in best practices for the procurement of IT.
- D. Administrative structure of representation (i.e. proposed staffing assignments), soundness of approach to representation and understanding of the needs of the DOJ and the State agencies;
- E. Demonstrated ability to perform the services referred to in the Project Scope; and
- F. References and recommendations of other clients.

#### **5.02 Contract Negotiation**

DOJ intends on opening negotiations with the Firm that the DOJ determines has a reasonable likelihood of being awarded a contract based on the proposal, interview and, if any, supplemental submissions. Negotiations will focus on any weaknesses or deficiencies in proposals as well as cost and pricing issues.

A written contract with the law firm(s) selected will be required, which must be approved by the Attorney General of the State of Delaware, Delaware Department of Justice ("DDOJ") and the Governor of the State of Delaware pursuant to 29 *Del. C.* § 2507. The successful firm will be required to comply with the DDOJ Outside Counsel Billing Policy.

**5.03 Contract Award**

DOJ reserves the right to award all, part, or none of this contract and intends to award contracts to more than one law firm if deemed appropriate and desirable.