

**REQUEST FOR PROPOSALS FOR RATEPAYER ADVOCATE  
ISSUED BY DEPARTMENT OF LABOR  
CONTRACT NUMBER LAB18001-OWC/RA**

**1. Overview**

Pursuant to 18 *Del.C.*§2610(e-g), and on behalf of the Workers' Compensation Oversight Panel ("WCOP"), with the consent of the Attorney General, the Delaware Department of Labor ("DOL") seeks to engage a member of the Delaware Bar to serve as Ratepayer Advocate who shall represent the interests of Delaware workers' compensation ratepayers in connection with the filing of an application by the Delaware Compensation Rating Bureau ("DCRB") relating to rates or prospective loss costs throughout the course of the application (including any amendments thereto) and any appeals.

The proposed schedule of events subject to the RFP is outlined below:

<b>ID</b>	<b>Date/Time</b>	<b>Activity</b>
1	June 15, 2018	Request for Proposals issued, posted on <a href="http://bids.delaware.gov">bids.delaware.gov</a> with a link on the DOL website
		DOL and DOJ issue answers to questions regarding RFP via the State of Delaware's Bid Solicitation Directory at <a href="http://bids.delaware.gov">http://bids.delaware.gov</a> and the DOL website at <a href="https://dia.delawareworks.com/workers-comp/">https://dia.delawareworks.com/workers-comp/</a>
3	<b>June 29, 2018 1:00 pm EDT</b>	<b>RFP Response due date</b>
4	July 9, 2018	Begin vendor interviews (subject to change)
5	July 16, 2018	Contract awarded (subject to change)

The DOL anticipates that, after conducting interviews, it will select a member of the Delaware Bar ("Vendor") to serve as Ratepayer Advocate pursuant to 18 *Del.C.*§2610(e-g) and applicable regulations (whether under consideration or finally adopted). This RFP will define the scope of the work to be performed, the requirements the Vendor must address, the method for response, and the administrative requirements that must be followed. The DOL reserves the right to modify and/or cancel this solicitation at any time during the RFP process.

All interested attorneys or firms should submit their written proposal ("Proposal") to the contact person. Proposals may be mailed, hand-delivered, or delivered by electronic mail no later than 1:00 p.m. EDT on June 29, 2018 ("Closing Date"). All timely Proposals become the property of the DOL. Requests for extensions of the Closing Date will not be granted. Any Proposal, request for modification, or request for withdrawal received after 1:00 p.m. on the Closing Date is late and may not be considered. The Proposals may be delivered by Express Delivery (e.g. FedEx, UPS, etc), U.S. Mail, electronic mail, or by hand. Proposals shall be submitted to:

Department of Labor  
Office of Workers' Compensation  
4425 N. Market Street  
Wilmington, DE 19802  
Attn: Stephanie K. Parker, Administrator  
Re: Ratepayer Advocate

Each proposal must be accompanied by a transmittal letter which briefly summarizes the proposing attorney or 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 which the applicant may have taken in presenting the proposal. DOL 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 offerors. Proposals shall address all the questions posed by the DOL in the order in which they appear in this request.

RFP Designated Contact:

Stephanie K. Parker, Administrator  
Department of Labor  
Office of Workers' Compensation  
4425 N. Market Street  
Wilmington, Delaware 19802  
Direct Dial: (302) 761-8194  
Fax: (302) 736-9170  
Email: [stephanie.parker@state.de.us](mailto:stephanie.parker@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 of Delaware's Bid Solicitation Directory at <http://bids.delaware.gov> and the DOL website at <https://dia.delawareworks.com/workers-comp/>

## 2. Minimum Required Qualifications

### 2.01 Experience and Reputation

- A. The Vendor shall, at a minimum, (1) be a member of the Delaware Bar in good standing; (2) have significant experience in matters related to insurance company regulation; (3) preferable have experience in insurance rate proceedings; and (4) comply with the Delaware Lawyers Rules of Professional Conduct guidelines on conflicts of interest with regard to the proposed representation.
- B. If the Vendor is a law firm, it must designate a member of the firm, having the qualifications set forth in section 2.01A, who will serve as the Ratepayer Advocate.

### 2.02 Professional liability Insurance

The Vendor 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 \$2 million. In order to satisfy this requirement, the Vendor 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 Vendor meets this requirement, or
  - 2) A commitment letter or other evidence, satisfactory to the Procurement Officer, that Vendor will have such coverage as of the date the Contract commences.

### 2.03 Vendor's Capacity

The Vendor must demonstrate the capacity to perform the type of services needed by the DOL described in Section 1 above. The Vendor must be available at all times to render services required under the Contract.

### **3. Technical Proposal Format**

The following information shall be provided in each Proposal in the order listed below. A Vendor 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 the DOL.

#### **3.01 General**

All technical Proposals shall be prepared with a concise description of the Vendor's capabilities to satisfy the minimum qualifications of Section II above and the information requested under Section 3.02 below. Vendors 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.

##### **A. Vendor's Prior Experience**

##### **1. General Information:**

- (i) Within the past three 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 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 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 the Ratepayer Advocate leaves the firm.

##### **2. Insurance Experience:**

- (i) Provide a detailed description of the Vendor's experience in matters related to administrative law, insurance law, insurance company regulation, and insurance rate proceedings during the last five (5) years, including any involvement with issues relating to administrative law issues.
- (ii) Describe the Vendor's experience in the last five (5) years representing or advising public sector clients in administrative law issues.

(iii) Provide a brief description of areas of the law related to the purpose of this RFP in which the Vendor has an expertise, including, but not limited to insurance law and administrative law.

(iv) Please describe how the Vendor will be prepared promptly to retain an actuary, and with the actuary, meet tight deadlines in connection with the ratemaking process.

#### B. Conflicts of Interest.

1. In general. If a conflict of interest arises, the Vendor should be willing to continue to serve as Ratepayer Advocate and be in a position to inform other existing or potential clients that they must find representation elsewhere in particular situations. The DDOL and Attorney General may entertain a request for a waiver of a Vendor's representation of a party in litigation involving a unit of State government other than the DDOL, but does not expect to waive any other conflicts. The DDOL 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 Vendor shall identify any conflicts of interest which may arise if the Vendor serves as Ratepayer Advocate and shall describe in its Proposal how it proposes to deal with such conflicts. Such conflicts may arise not only from the Ratepayer Advocate but also from other matters involving any member of the firm, regardless of whether that attorney is in the same office or a different office of the firm.

### 4. Price Proposal Format

#### 4.01 Billing Rates

A. Current billing rates for the Ratepayer Advocate, and all attorneys who may assist the Ratepayer Advocate pursuant to this RFP and any applicable discounts;

B. Current billing rates for all para-professionals who may assist the Ratepayer Advocate pursuant to this RFP and any applicable discounts;

C. Confirmation that regardless of the approved hourly rate, the total amount charged by the Ratepayer Advocate for fees and expenses, throughout the entire course of the application (including any amendments thereto) and any appeals, shall be limited to \$40,000.

D. No compensation will be permitted for the services of law clerks and law school graduates not admitted to practice.

#### 4.02 Alternative Pricing Proposals

Although each Vendor is required to submit a price proposal containing the information set forth in Part 4.01, the DOL will also accept proposals for alternative billing arrangements, which enhance the value and efficiency of the services to be provided, while complying with the overall \$40,000 ceiling for representation throughout the entire course of the application (including any amendments thereto) and

any appeals. The Vendor may submit a statement, not more than one page in length, with respect to any alternative pricing proposal.

## **5. Evaluation of Proposals**

The selection committee shall evaluate the Proposals. During the evaluation process the selection committee may, at its discretion, request any or all Vendors to make oral presentations or participate in a formal interview. Such presentation or interviews will provide Vendors with an opportunity to answer questions about a Vendor's Proposal. Not all Vendors may be asked to make an oral presentation or to attend an interview.

### **5.01 Selection Criteria**

The selection of the Vendor to provide legal services will be based on an evaluation of the Proposals to determine which Proposal reflects the best value, with technical factors generally being considered more important than cost of services, subject to the \$40,000 ceiling for representation throughout the entire course of the application (including any amendments thereto) and any appeals. The selection of the Vendor to provide legal services will be based upon the following technical factors in descending order of importance.

- A. Experience of the Vendor in matters related to administrative law, insurance law, insurance company regulation, and insurance rate proceedings during the last five (5) years, including any involvement with issues relating to administrative law issues;
- B. Administrative structure of representation (i.e., proposed staffing assignments), soundness of approach to representation and understanding of the needs of the DOL;
- C. Demonstrated ability to perform the services referred to under Project Scope and Objectives, including without limitation how the Vendor will be prepared promptly to retain an actuary, and with the actuary, meet tight deadlines in connection with the ratemaking process; and
- D. References and recommendations of other clients.

### **5.02 Contract Negotiation**

The DOL intends on opening negotiations with Vendors that the DOL determines have a reasonable likelihood of being awarded a contract based on the Proposals that are submitted. Negotiations will focus on any technical weaknesses or deficiencies in Proposals as well as cost and pricing issues.

A written contract with the selected Vendor will be required. Each contract must be approved by the Attorney General pursuant to 18 *Del.C.* §2610.

### **5.03 Contract Award**

The DOL reserves the right to award all, part, or none of this contract. The DOL intends to award a contract to one Vendor if deemed appropriate and desirable.

## **6. Potential Contract Overlap**

Vendors shall be advised that the State, at its sole discretion, shall retain the right to solicit for goods and/or services as required by its agencies and as it serves the best interest of the State. As needs are identified, there

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may exist instances where contract deliverables, and/or goods or services to be solicited and subsequently awarded, overlap previous awards. The State reserves the right to reject any or all bids in whole or in part, to make partial awards, to award to multiple vendors during the same period, to award by types, on a zone-by-zone basis or on an item-by-item or lump sum basis item by item, or lump sum total, whichever may be most advantageous to the State of Delaware.