

**NEW YORK STATE
DEPARTMENT OF PUBLIC SERVICE
OUTSIDE LITIGATION COUNSEL AND SUPPORT SERVICES
REQUEST FOR INFORMATION**
This is not a solicitation.

Purpose and Objective

The purpose of this Request for Information (RFI) is to acquire information from attorneys and/or law firms interested in providing Outside Litigation Counsel and Support services to the New York State Department of Public Service (the Department) in a Federal lawsuit that was recently filed against certain Commissioners of the Public Service Commission (PSC), the complaint for which is attached to this RFI.¹ The Department is interested in understanding the availability, experience, capability, and costs for qualified attorneys and/or law firms to provide litigation services in Federal Court. The Department will use the information received from this RFI to make a determination regarding how best to proceed to obtain the required legal services, which may include a future procurement. The results of this RFI may be used to develop a formal solicitation should the Department determine sufficient interest exists in providing the required legal services. Attorneys and law firms interested in participating in a possible future procurement opportunity are encouraged to respond to this RFI, and are also encouraged to sign up for the NYS Contract Reporter (<http://www.nyscr.org/Public/Index.aspx>), New York's official publication of state procurement activity.

It is the objective of this RFI to:

- Seek general information about the availability and level of experience of attorneys and/or law firms that may be well-qualified to provide Outside

¹ Federal District Court, Northern District of New York, Docket No. 5:15-CV-230 [DNH/TWD]. The litigation arises out of an Order issued by the New York State Public Service Commission in Case 12-E-0577 on June 13, 2014. The public documents in the administrative record for that case are available at www.dps.ny.gov in the "Commission Documents" section, searchable by case number. Documents filed in the Federal District Court, Northern District of New York, are available through the PACER system at www.pacer.gov.

Litigation Counsel and Support Services to the Department in recently filed Federal litigation;

- Solicit vendor perspectives on the level of complexity of the recently filed federal lawsuit, and the nature and level of services that may be required by the Department to defend the agency, including if the matter proceeds to trial;
- Develop a general understanding of current vendor demographics and capabilities; and
- Obtain vendor feedback regarding the feasibility of representation and the extent of the financial commitment and cost that could be implicated by this lawsuit.

Scope of Request

The Department seeks information regarding the availability and cost of Outside Litigation Counsel that would have the qualifications to provide litigation services to the Department and Commissioners regarding a recently filed lawsuit in Federal Court. This responsibility could include, but may not be limited to:

- Advising the Department concerning the preparation of litigation documents that may be required (*e.g.* motions and/or briefs), or actually preparing said documents;
- Preparing for and attending depositions for the Department, other parties, and non-parties;
- Preparing responses to discovery request and assisting with sorting through Department documents;
- Representing the Department in complex litigation should a trial be required;

- Providing objective third-party advice and counsel to enable the Department and Commissioners to make well-informed decisions regarding the litigation; and
- Working in conjunction with the Department's General Counsel and Solicitor with respect to the above.

Content of Response

Vendors are encouraged to respond to all questions included in this document, and vendors are further encouraged to describe ways in which they believe that their service capability is uniquely suited or distinctive. A response does not bind or obligate the responder or the Department to any agreement of provision or procurement of services. No contract can or will be awarded based on submissions.

Since this RFI is designed as a tool to collect information and will not result in a procurement contract for legal services, it does not fall under the requirements of State Finance Law §§139-j and 139-k (the Procurement Lobbying Law) and there is no restricted period. However, questions and responses must be directed in writing to the email address listed below. No phone calls will be accepted.

In order to facilitate review of the responses, please provide the information in the exact order as listed below. Vendors must answer within this document directly below each question, maintaining the original formatting of this document. Please rename this document with the following naming convention: NYSDPS Outside Counsel Services RFI_VENDOR NAME.doc (.docx format is also acceptable). If there is additional or supplemental documentation vendors can provide to augment their responses to the questions in this RFI, please refer to such in the

corresponding question(s) and attach separately. New York State requests that vendors refrain from providing sales literature.

If any of the information in the vendor response is considered confidential, proprietary, or trade secret, it must be clearly indicated on the appropriate page of the vendor response. Release of such materials is governed by the NYS Freedom of Information Law, which, in pertinent part, requires the requester of protection from disclosure to provide a specific justification as to why disclosure of particular information in the response would cause substantial competitive injury to the competitive position of the vendor.

**Please provide your response no later than 5pm EST on May 1, 2015 to
contracts@dps.ny.gov.**

Vendor Demographics

Company Name

- Location
- Headquarters location

Contact Name

- Title
- Email Address
- Phone Number

Vendor Questions

In responding to this RFI, please provide information about the following:

Qualifications and Experience

1. Provide a description of your firm and qualifications, including the extent of your law firm's experience litigating on behalf of clients in the energy industry, including experience conducting trials in the Federal Courts. The description should include information about the complexity of the matters and the extent (preferably in approximate hours) of pretrial motion practice, discovery, and/or the trial involved in each, as well as the outcome. Provide estimates of the numbers of hours that were involved for each case, broken down by the type of service provided. For instance, how many hours of pretrial motion practice, discovery, trial, and post-trial motion practice, etc.
2. Indicate how many clients to which the firm has provided complex litigation services in the last three years. Indicate how many of those clients are in the energy industry.
4. Describe the type and scope of the litigation support services that your firm could provide to the Department with respect to the identified federal litigation.

Cost

1. Indicate whether your firm typically performs work on an hourly basis or for a flat fee.

Describe any non-traditional fee arrangements that your firm has offered, or is willing to consider.

2. Please include current fees or hourly billing rates charged by the attorneys in your firm.

3. Indicate the fees that your firm charges on items separate from attorney's services, including fees for word processing, copying, and computerized research.

General

1. Indicate what information about the services to be provided you would need to see in a potential Request for Proposal (RFP) to help you effectively prepare a competitive response.