The Supreme Court of Ohio

REQUEST FOR PROPOSALS

Number: 2013-04

ISSUING OFFICE: ADMINISTRATIVE DIRECTOR

Date: JULY 31, 2012

The Supreme Court invites proposals for qualified counsel to **the Ohio Judges Liability Self - Insurance Program** in accordance with the following specifications:

Proposals Due to the Supreme Court: AUGUST 13, 2012 AT 12:00 P.M.

NOTICE

R.C. Section 9.24 prohibits the Supreme Court from awarding a contract to any offeror against whom the Auditor of State has issued a finding for recovery if the finding for recovery is unresolved at the time of award. By submitting a proposal, an offeror warrants that it is not now, and will not become subject to an unresolved finding for recovery under R.C. Section 9.24, prior to the award of any contract arising out of this Request for Proposals, without notifying the Supreme Court of such finding.

(1) Overview

The Supreme Court of Ohio issues this Request for Proposals from qualified, independent law firms to serve as insurance defense counsel to the judges of all municipal, county, common pleas courts and the court of claims including private judges and retired assigned judges ("Insured Judges") in the State of Ohio covered by the Judges Liability Self-Insurance Program, a self-insured program operated under the auspices of the Ohio Department of Administrative Services and Ohio Revised Code 9.82 et.seq. In addition, counsel will also provide limited representation to all Ohio judges and justices in initial disciplinary proceedings initiated under the Rules for the Government of the Bar, Rule V. Selected firms will also provide limited advice and counsel to the Insured Judges and their administrative staff in pre-litigation matters via an attorney staffed Judicial Hotline program, with the objective of reducing the likelihood of liability and the future expenditure of insurance funds. The term of the contract will coincide with the insurance coverage provided by the Judges Liability Self-Insurance Program, September 1, 2012 – August 31, 2013. Attorney fees and expenses over the last ten years of the program have historically ranged from $180,000 - $275,000.

Under this RFP, the Supreme Court shall select qualified firms to provide representation of the Insured Judges in all claims and litigation falling within the scope of coverage of the Judges Liability Self-Insurance Program. The Program provides coverage in combined personal and official capacity claims for professional liability and employment practices liability and limited coverage through the probable cause stage of disciplinary proceedings.

Written questions regarding this RFP should be directed only to D. Allan Asbury, Esq., Administrative Counsel via email a.asbury@sc.ohio.gov.

(2) Scope of Work or Deliverables

The insurance counsel will primarily provide litigation defense of Insured Judges (Approximately 830). Counsel shall have extensive and relevant experience in representing judicial officers or courts in both state and Federal litigation, as well as judges before the Supreme Court of Ohio Board of Commissioners on Grievances and Discipline.

Insurance counsel will assist, upon request, the program administrators in the setting of reserves and the settlement and negotiation of claims involving monetary damages. Insurance counsel will work in tandem with the program administrators.

Insurance counsel will provide pre-litigation counsel, including judicial disciplinary matters, and advice via the Judicial Hotline to the Insured Judges and/or their administrative staff in an amount not to exceed $50,000.00 in available billable time during the term of the contract. *The billable time for the hotline may be combined in the proposal with the cost proposals for the litigation representation.*

It is the intent of these specifications to describe the general expectations of counsel providing representation to Insured Judges.

Minimum Requirements

The Supreme Court has established minimum qualifications any law firm must meet in order to qualify for an award of contract under this Request for Proposals. Any firm that does not demonstrate the minimum qualifications in its response will not be considered.

The minimum qualifications for firms submitting proposals:

- All attorneys to be assigned by the firm to represent Insured Judges or respond to Judicial Hotline inquires must be in good standing in all jurisdictions they maintain an active license.

- All attorneys who will provide services must be licensed in the State of Ohio, and either the Northern or Southern U.S. District Courts of Ohio.

- All attorneys assigned by the firm to represent Insured Judges must have extensive trial experience in the defense of public officials sued in both official and personal capacities.

- Two or more of the firm's attorneys must have five or more years of first chair experience representing judges or public officials named as defendants in employment lawsuits.

- Two or more of the firm's attorneys must have five or more years of first chair experience representing judges or public officials named as defendants in lawsuits alleging violations of 42 U.S.C. §1983.

- Previous representation of Ohio judges in disciplinary matters initiated under Gov.Bar R. V.

- Demonstrated ability and resources to handle complex litigation through trial and appeals.

- Demonstrated ability and resources to provide adequate and competent statewide counsel and courtroom attendance in all 88 Ohio counties.

- Experience in working as assigned counsel for professional liability insurance programs.

- Maintain professional malpractice insurance (E&O) with a minimum limit of liability of $1,000,000 each occurrence and $2,000,000 in the aggregate.

(3) Contract

The selected firm(s) and the Supreme Court of Ohio will execute a contract. The Court reserves the right, in its sole discretion, to recommend an award of the Contract with or without negotiation.

The Supreme Court is exempt from taxation. Federal transportation and excise taxes, as well as state excise taxes shall not be included in the proposal prices. Excise tax exception certificates will be furnished upon request.

This purchase will not be subject to state taxes; tax exempt number: 31-6402047.

The Supreme Court has adopted a goal of utilization of certified minority business enterprises where possible in its awards for goods and services. Accordingly, the firm should indicate a minority business enterprise or when business operations are shared with a certified minority business enterprise.

The Supreme Court represents that it will have adequate funds to meet the obligations that will be incurred by contract. However, the Supreme Court shall have at its option the right to terminate any resulting contract should its appropriations, spending authority, or other revenues be reduced or, if applicable, if grant funds used to support this project are reduced or terminated.

The successful firm(s) will warrant that they are not subject to an unresolved finding for recovery under R.C. Section 9.24. If the warranty is false on the date the parties sign a contract awarding a firm's proposal, the contract is void *ab initio*, and the vendor must immediately repay to the Supreme Court any funds paid under the contract.

All proposals offered are firm. Check your proposal carefully because errors cannot be corrected after the proposals are opened. It is a condition of any award, under this proposal, that firm shall deliver at prices quoted, even if in error.

A proposal, upon acceptance by the Supreme Court, immediately creates a binding contract between the firm and the Supreme Court. Once accepted, it may not be rescinded, canceled, or modified by the firm.

Any contract resulting from this request for proposals is binding on the successful firm. Failure of the firm to meet or perform any of the contract terms or conditions shall permit the Supreme Court to rescind or cancel the contract and purchase replacement articles or services of comparable grade in the open market. The firm shall reimburse costs and expenses in excess of the contract price necessitated by such replacement purchases to the Supreme Court. The Supreme Court does not waive the right to insist upon future compliance with these proposal specifications when there is undiscovered delivery of non-conforming goods or services.

(4) Notice Regarding Disclosure of Confidential and Proprietary Business Information and Trade Secrets

The Supreme Court hereby advises vendors that all documents submitted in response to this Request for Proposals, including those documents that purportedly contain confidential and proprietary business information or trade secrets, may be considered administrative documents under Sup.R. 44 through 47 (Public Access Rules). The Supreme Court will allow the public, including other vendors, to inspect and obtain copies of these documents in accordance with Sup. R. 45, after the Request for Proposals deadline expires unless each of the following applies:

(A) In its response to this Request for Proposals, the vendor clearly identifies the document or document information the vendor believes is not an administrative document as defined by Sup.R. 44(G);

(B) In its response to this Request for Proposals, the vendor clearly identifies the state, federal or common law that exempts the document or document information under Sup. R. 44(G);

(C) Supreme Court staff independently determine that the document or document information is not an administrative document as defined in Sup.R. 44(G).

(5) Format and Content of Vendor's Proposal

1. Name, address, telephone number, and legal business status of the firm.
2. Name, title, address and telephone number of the person or persons authorized to represent the firm in negotiations with the Supreme Court with respect to the RFP and any subsequently awarded contract.
3. A representative or officer of the firm must sign the cover letter. If the respondent is a partnership, the response must be signed by a general partner of the partnership.
4. Physical address of the firm's Ohio offices.
5. Provide information on whether your firm represents any interests that may constitute a conflict of interest with Insured Judges.
6. All firms shall have sufficient qualified attorneys, paralegals and other personal resources to provide the legal services required. Please include a statement that details the names, bar number, resumes, and relevant expertise of the attorneys to be assigned to the work required under this RFP.
7. Please also submit a statement listing the proposed hourly rates for each attorney (partner or associate), paralegal and general support staff to be assigned to the work required under this RFP.
8. Proved at least two firm references, including one governmental entity reference. Include the name, agency, address, and phone number for each reference.
9. Describe your firm's equal opportunity policies.

Submitted proposals should provide a concise delineation of the firm's capabilities to perform the services requested. The proposal submitted must provide the requested information in

sufficient detail to enable the Supreme Court to evaluate the firm pursuant to the specifications and other requirements.

Solicited firms responding to the request for proposals should satisfy all the requirements specified in the request for proposals to qualify.

(6) Evaluation Criteria

Proposals will generally be evaluated based on the following criteria:

1. Overall firm experience and knowledge representing judges or other public officers in litigation in both official and personal capacities.

2. Overall firm experience and knowledge representing judges before the Ohio judicial disciplinary system.

3. Experience in working for insurance liability programs for professional coverage.

4. Cost, including proposals that demonstrate creative or alternative billing arrangements (fee caps, fixed fee, blended rates, not-to-exceed) that include cost-containment methods and reduce the overall expenses to the Judges Liability Self-Insurance Program.

In addition, proposals will be evaluated on the basis of the firm's understanding of the Judges Liability Self-Insurance Program, the quality of the services offered, and personnel recommended for the program. All information should be presented in the format recommended by this Request for Proposals. With this information the Supreme Court will select a firm that provides the lowest, responsive and responsible proposal.

The proposals received will be evaluated by the Supreme Court, which may accept or reject any or all proposals, in whole or in part, and may waive minor defects in a proposal, if no prejudice results to the rights of another firm or to the public.

The Supreme Court reserves the right to accept more than one bid in order to designate geographic territories for the legal services to be provided to the Insured Judges.

(7) Submission of Proposal and Contact Information

Sealed proposals are to be received no later than August 13, 2012 at 12:00 p.m. Proposals received after this date and time will not be considered. Two complete and signed copies of the proposal must be submitted for evaluation. In addition, any request for confidentiality regarding the proposal submitted must be clearly delineated. Proposals shall be clearly marked as follows:

Supreme Court of Ohio Request for Proposals Number 2013-04
Attn: D. Allan Asbury, Esq., Administrative Counsel
The Supreme Court of Ohio
Office of the Administrative Director
65 South Front Street
Columbus, Ohio 43215-3431

The Supreme Court reserves the right to reject any and all proposals. The preparation of the proposal shall be at the vendor's expense. All proposals will be opened on August 13, 2012, at 4:00 p.m., in the Office of the Administrative Director.

The Supreme Court estimates it will evaluate firms and announce a contract award or awards no later than August 20, 2012, or as soon thereafter as practicable.

(8) Equal Employment Opportunity Policy

The Supreme Court is an equal opportunity employer. Persons conducting or seeking to conduct business with the Supreme Court are subject to Adm. P. 5 (Equal Employment Opportunity), a copy of which can be obtained from the office issuing this request for proposals.

(9) Discrimination and Harassment

The Supreme Court prohibits discrimination and sexual harassment. Persons conducting or seeking to conduct business with the Supreme Court are subject to Adm. P. 24 (A) (Discrimination and Sexual Harassment), a copy of which can be obtained from the office issuing this request for proposals.

(10) Alcohol and Drug Free Workplace

The Supreme Court intends to provide a drug and alcohol free workplace. Persons conducting or seeking to conduct business with the Supreme Court are subject to Adm. P. 22 (A-C), a copy of which can be obtained from the office issuing the request for proposals.

(11) Campaign Contribution Restrictions

The Supreme Court will not consider a bid from any law firm, its political action committee or employees of which have made a contribution to the campaign committee of a current Justice or Chief Justice. "Contribution" is defined as a loan, gift, deposit, forgiveness of indebtedness, donation, advance, payment, transfer of funds, or transfer of anything of value.