LAW DEPARTMENT
OUTSIDE COUNSEL SERVICES
REQUEST FOR PROPOSALS (RFP)
OPIOID INVESTIGATION AND LITIGATION COUNSEL
RFP 17-LAW-004

Schedule

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<th>ACTIVITY (All times are local Phoenix time)</th>
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<td>Issue RFP</td>
<td>11/16/2017</td>
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<td>Submittal of Written Questions</td>
<td>11/27/17 @ 4:00 p.m.</td>
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<td>Responses to Written Questions</td>
<td>12/1/17 @ 4:00 p.m.</td>
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<td>Proposal Submittal</td>
<td>12/6/17 @ 4:00 p.m.</td>
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<td>Award recommendation presented to City Council for approval</td>
<td>12/13/17</td>
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Submit requests for alternate formats to:

Monica Gonzalez, Procurement Officer
City of Phoenix Law Department
200 West Washington, 13th floor
Phoenix, Arizona 85003
Telephone: (602) 262-6761
Monica.Gonzalez@phoenix.gov

This RFP does not commit the City to award any agreement.
All dates subject to change.
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Exhibit 1 Agreement

Exhibit 2 Business Certification and Other Information

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Exhibit 4 Conflict of Interest & Solicitation Transparency Disclosure Form
1. RFP Process

A. Scope of this Request for Proposals

The Phoenix City Attorney requests formal proposals to perform unique legal services: specifically, to investigate and (if appropriate) file suit against manufacturers, suppliers, and distributors of prescription opioids. The City Attorney may enter into an agreement for legal services with a qualified attorney or law firm.

In representing the City, the attorney or law firm shall perform all necessary legal services, including investigation, legal research, and preparation of legal memoranda, pleadings, and briefs, and appearing before mediators and courts. The goals of any litigation are to: (1) effectuate change in how opioids are distributed and prescribed; and (2) recoup public money spent in responding to the current opioid crisis.

All documents and information involving this RFP are available from the City’s RFP Internet site:

https://www.phoenix.gov/solicitations

B. Minimum Qualifications

A lawyer or law firm responding to this RFP must be in good standing with all state bars in which the lawyer or firm is authorized to practice law. The proposer, or a lead member of its team, must also be authorized to practice law in Arizona. If a proposal is submitted by a team, all lawyers and firms on that team must be identified in the proposal.

The proposer must demonstrate in its proposal that it meets these minimum qualifications. If the proposer fails to do so, its proposal will be deemed nonresponsive, and the proposer will be disqualified.

C. Proposed Agreement

The draft agreement between the City and the successful proposer is attached as Exhibit 1. Proposers must read the draft agreement and submit any questions about it in accordance with the process listed in Section D. By submitting a proposal, each proposer will be bound by the agreement, which the City may modify before it is signed by the successful proposer.
D. Proposer Questions

Proposers must submit any questions about this RFP in writing no later than the deadline listed on page 1. Questions must be submitted to Monica Gonzalez, Procurement Officer, at Monica.Gonzalez@phoenix.gov. All written questions will be responded to in writing and posted at: https://www.phoenix.gov/solicitations

E. Registration requirements

Proposers must be registered in the City’s e-Procurement Self-Registration System at https://www.phoenix.gov/financesite/Pages/EProc-help.aspx in order to receive solicitation notices, respond to solicitations, and access procurement information.

2. Proposal Instructions

A. Delivery of Proposals

Proposals must be delivered in hard copy form by U.S. mail or overnight courier. Proposals delivered by e-mail or in other electronic form will be rejected as nonresponsive.

Each proposer must submit the following in a sealed package marked with the proposer’s name and the name of this RFP:

One original and two copies of the proposal, for a total of three copies.

The proposal envelope must be marked on the outside: “Offer, Outside Counsel Services-Opioid Investigation and Litigation RFP No. 17-LAW-004.” The envelope must also include the submitter’s name.

All proposals must be delivered to:

Brad Holm
City Attorney
City of Phoenix Law Department
200 West Washington Avenue, 13th Floor
Phoenix, AZ 85003-1611
Proposals must be submitted by the deadline disclosed on page 1 and must be received at the address stated on page 1. **Proposals received after the deadline will not be considered.**

B. Form of Proposals

Each proposal must include all of the following in the following order:

**Document 1** Transmittal letter that includes: (1) a statement indicating that the proposal formally responds to “Outside Counsel Services-Opioid Investigation and Litigation RFP No. 17-LAW-004”; and (2) a description of the proposer’s areas of specialization.

**Document 2** Conflicts letter that expressly represents that neither proposer nor any member of its team has a current conflict of interest relating to the City and that neither is currently involved in any activity adverse to the City or its interests. The letter must also certify that neither proposer nor any member of its team will accept an engagement adverse to the City until the opioid engagement has been fully and finally concluded.

**Document 3** Certificate of insurance providing coverage as described in Exhibit 1, item number 35, Insurance Requirements. The failure to provide a certificate of insurance in conformity with this requirement will disqualify the proposer.

**Document 4** Proposer’s statement of qualifications addressing its specific opioid or similar litigation experience. In ten pages or less, proposer must provide the following information in the qualifications statement:

1. Identify the lawyers to be assigned to any opioid litigation filed by the City, and detail their qualifications and experience.

2. Briefly discuss (and mark “confidential work product”):
   a. The pre-filing investigation proposer would do to ascertain Phoenix’s potential damages, and tell us which resources proposer would need from the City to complete the investigation;
   b. In which jurisdiction proposer would file any lawsuit, and the advantages or disadvantages of filing there;
c. Proposer’s plan to deal with multi-district litigation consolidation, including how proposer would assert and protect Phoenix’s interests;
d. Proposer’s proposed discovery plan;
e. Proposer’s settlement strategy; and
f. Any litigation’s anticipated schedule.

3. Provide three client references (and their contact information) for proposer and for each lead lawyer and law firm that is part of proposer’s team.

4. State proposer’s fee for all proceedings (including appeal) and how proposer would calculate it. If Phoenix joined with another major Arizona jurisdiction (such as the City of Tucson), how would that affect the fee charged?

5. State how proposer would handle costs.

6. Identify the main and backup contacts (lawyers) for your team.

   **Document 5** Business Certification and Information form, **Exhibit 2**, signed by the person with full authority to enter into any future agreement.

   **Document 6** Affidavit, **Exhibit 3**, signed by the person with full authority to enter into any future agreement.

   **Document 7** Conflict of Interest & Solicitation Transparency Disclosure Form, **Exhibit 4**, signed by the person with authority to enter into any future agreement.

3. **Proposal Evaluation**

   The City Attorney will review proposals in his sole discretion for responsiveness, minimum qualifications, completeness, and adherence to all RFP requirements. The City reserves the right to reject any and all proposals.

   **A. Evaluation Panel**

   The City will appoint an evaluation panel composed of Brad Holm, City Attorney; Dan Brown, Chief Assistant City Attorney; and Anoop Bhatheja, Assistant City Attorney, to review the proposals and recommend a proposer to be awarded the contract resulting from this RFP.
B. Evaluation Criteria

1. Responsiveness. Nonresponsive proposals will not be considered. Exceptions, conditions, reservations, or understandings are presumed unacceptable, and a proposal that includes any of them may be rejected as nonresponsive.

2. Responsibility. The City Attorney will review each proposal to determine if the proposer is responsible. This determination will be based on the information furnished by the proposer, any information requested by the City, information in any best and final offer, and information received from the proposer’s references.

4. Best-and-Final Offer

The City reserves the right to request best-and-final offers from one or more proposers and to negotiate with one or more proposers.

5. General Terms and Conditions Of Proposal

A. Transparency Policy

Commencing when this solicitation is published on the website, neither potential nor actual proposers (including their representatives) may discuss this RFP with the Mayor, City Councilmembers, the City Manager, any Deputy City Manager, or any department director (including their respective staff, except for the designated Procurement Officer) until the date the resulting contract is scheduled for award or the date all offers or responses are rejected and the solicitation is cancelled. As long as the solicitation is not discussed, proposers may continue to conduct business with the City and discuss business unrelated to this RFP with city staff not involved in the selection process. “To discuss” means any contact by the proposer, including all written or electronic communication, regardless of whether the City responds to the contact.

This policy is intended to create a level playing field for all proposers, assure that contracts are awarded in public, and protect the integrity of the selection process.

Proposers who violate this policy will be disqualified.
B. Equal Employment Opportunity Requirements

The successful proposer must comply with Phoenix City Code, Chapter 18, Article V, as amended. Proposers should direct any questions about these requirements to the Equal Opportunity Department at 602-262-6790.

C. Award Recommendations

Award recommendations will be posted at:


D. Disclosure of Confidential and Proprietary Information

All materials submitted by proposers will become the City’s property. The materials will also become public records available for review under Arizona law. Each proposer must mark any confidential or proprietary information in its proposal.

If the City receives a request to review or disclose confidential information, the City will notify the proposer of the request to allow the proposer the opportunity to obtain a court order to prevent disclosure of the confidential information. The proposer must obtain and deliver to the Procurement Officer a court order within the time specified in the City’s notice. If no court order has been received by the Procurement Officer within the time specified, the City may disclose or allow review of any confidential information.

E. City’s Reservation of Rights

In its sole discretion, the City reserves the right to:

1. Waive any defects or informalities in any proposal, this RFP, or the solicitation process;
2. Accept or reject any or all proposals or any part of a proposal;
3. Cancel the RFP in whole or in part;
4. Reissue the RFP with or without modification;
5. Negotiate with any qualified proposer;
6. Extend the deadline for proposals;
7. Request additional information from any or all proposers.
F. Right to Disqualify for Conflict of Interest

The City reserves the right in its sole discretion to disqualify any proposer on the basis of a real or apparent conflict of interest.

G. Preparation Costs

Each proposer must bear all cost associated with its proposal. The City will not pay any costs related to this RFP incurred by any proposer.

H. Proposer Certification and Affidavit

By submitting a proposal, each proposer certifies it has not paid or agreed to pay any fee or commission, or any other item of value contingent on the award of a contract to any employee, official, or current contractor or consultant of the City.

Under A.R.S. §§ 1-501 and 1-502, the successful proposer must submit an affidavit of lawful presence prior to contract award if the proposer is an individual or sole proprietorship.

I. Covenant Against Contingent Fees Paid to Proposer

By submitting a proposal, the proposer certifies that: (1) it has not employed or retained any person or company, other than a member of its proposed team or a bona fide employee of the proposer, to solicit or secure the contract described in this RFP; and (2) no agreement has been made to pay the proposer or any member of its team any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent on or resulting from the award or execution of the contract. For breach of this certification, the City may void any contract entered into with a proposer without liability, or the City in its discretion may deduct or recover the full amount of the fee, commission, percentage, or gift from any fee owed proposer under the contract.

J. Execution of Agreement

Within 15 calendar days from the date the final agreement has been sent to the successful proposer, the proposer must sign and submit the final agreement to the City. If the City has not received the signed agreement and all other required documentation from the successful proposer within 30 calendar days, the City may rescind the award to the proposer.
Until the City executes an agreement with the proposer, no contractual relationship exists between the parties. If the successful proposer is subject to regulation by the Arizona Corporation Commission, the proposer must be authorized to transact business in Arizona and must be in good standing with the Commission at the time the proposer signs the agreement.

6. Protests

A proposer may protest the City’s adverse determination on responsiveness or responsibility within seven days of the date the proposer is notified of the adverse determination.

A proposer may protest an award recommendation if the proposer can establish that it had a substantial chance of being awarded the contract and that it will be damaged by the recommended award. The recommendation to award the contract to a proposer will be posted on the City’s website. A proposer may file a protest no later than seven calendar days after the recommendation is posted on the website.

All protests must be in writing and must be filed with the Procurement Officer identified in the solicitation. All protests must include:

1. Identification of the solicitation number;
2. The name, address, and telephone number of the protester;
3. A detailed statement describing all factual and legal bases for the protest, including copies of relevant documents;
4. The form of relief requested; and
5. The signature of the protester or its authorized representative.

The Procurement Officer will render a written decision within 10 days of the date a timely protest is filed. All protests and appeals must be submitted in accordance with the Procurement Code (Phoenix City Code, Section 43) and Administrative Regulation 3.10. Any protest or appeal not submitted within the time requirements will not be considered.