



REISSUE DATE: November 2, 2016
Original Date of Issue: October 28, 2016
REQUEST FOR PROPOSAL
TO PROVIDE LITIGATION, ADMINISTRATIVE OUTREACH, AND LOBBYING
LEGAL SERVICES TO THE NAVAJO NATION

PROPOSAL DUE DATE: Wednesday, November 9, 2016 at 5:00PM MT

CONTACT PERSON: Jana Werner, Principal Attorney
Tax and Finance Unit
Navajo Nation Department of Justice
(928) 871-8526

E-MAIL PROPOSALS TO: Jana Werner, Principal Attorney, Tax and Finance Unit,
Navajo Nation Department of Justice at
jwerner@nndoj.org; with a copy to Lena Kee, Assistant to
the Attorney General, at lkee@nndoj.org.

**NOTE: THIS RFP IS BEING REISSUED AS OF NOVEMBER 2, 2016, TO CLARIFY
PROPOSAL DUE DATE IS NOVEMBER 9, 2016 AT 5:00PM MT. NO LATE
PROPOSALS WILL BE ACCEPTED.**

A. Scope of Work. The selected Respondent will provide the following services to the Navajo Nation:

Litigation, Administrative Outreach, and Lobbying Legal Services to assist the Navajo Nation Department of Justice in matters related to federal administrative offsets by the U.S. Department of the Treasury (the "U.S. Treasury") for disputed debts, which offsets are taken against funds of the Navajo Nation (the "Nation") received for non-related federal programs and grants. U.S. Treasury action is arguably taken pursuant to the Debt Collection Improvement Act, the Federal Medical Care Recovery Act, and/or the Contract Disputes Act, and related federal regulations. The requested services will entail (1) analysis of the validity of the underlying debts and whether the federal agencies referring claims to U.S. Treasury for administrative offset have complied with applicable law and regulations; (2) analysis of whether the Nation has a basis for challenging the underlying debts; (3) analysis of whether the Nation has a basis for challenging the U.S. Treasury's administrative offsets; (4) possible litigation against the U.S. Treasury or the federal agencies referring the claims to U.S. Treasury; (5) administrative outreach to the U.S. Treasury to, among other things, direct the U.S. Treasury as to where valid offsets are to be applied; (6) administrative outreach to the

**Request for Proposal – Litigation, Administrative Outreach, and Lobbying Legal Services
to the Navajo Nation Department of Justice**

Issued: October 28, 2016; Reissued November 2, 2016

Page 1 of 5

federal agencies referring the claims to U.S. Treasury; and (7) lobbying efforts, if necessary, of U.S. Treasury and the federal agencies referring the claims to U.S. Treasury. Selected Respondent will provide services to secure favorable outcome of the disputes and litigation, if necessary. Selected Respondent will report directly to the Attorney General or her designee.

Proposals must be received by email by the Navajo Nation Department of Justice by no later than 5:00 PM MT on Wednesday, November 9, 2016. NO LATE PROPOSALS WILL BE ACCEPTED.

- B. Fees. Describe in detail the hourly rate or other basis by which you would bill the time of attorneys and paralegals assigned to fulfill this scope of work. Also describe your timekeeping and invoicing practices. If you intend to engage outside consultants or co-counsel, provide comparable information regarding their fees and expenses.
- C. Conflicts. Your firm should make an affirmative statement as to whether your former or current representation of clients presents any conflict of interest which might bar you from undertaking the responsibilities of these services. Describe the precise nature of any potential conflict. A conflict of interest may include whether you or your firm currently represent any other tribes, governments, or private interests that may adversely impact the Navajo Nation with respect to contracting, leasing or employment matters against the Navajo Nation or any of its enterprises. Your application should disclose whether you or your firm provides representation to any entity with an office or business site on the Navajo Nation, or any entity that does business on or with the Navajo Nation.

SECTION I

SCHEDULE OF ACTIVITIES AND CONTACT

SCHEDULE	DEADLINES
1. Due Date for Proposals	Wednesday, November 9 by 5:00 PM MT
2. Anticipated Dates for Interviews	Week of November 14
3. Notification of Selection	Wednesday, November 23 by 5:00 PM MT

Request for Proposal – Litigation, Administrative Outreach, and Lobbying Legal Services to the Navajo Nation Department of Justice

Issued: October 28, 2016; Reissued November 2, 2016

Page 2 of 5

Prospective Respondent may make inquiries to Jana Werner, Principal Attorney, Tax and Finance Unit, Navajo Nation Department of Justice, at 928-871-8526, up to Wednesday, November 9, 2016 at 12:00 PM MT. Inquiries concerning this RFP or to obtain clarification of requirements will be answered up until that time.

Late proposals will NOT be accepted. It is the sole responsibility of the Respondent to ensure the proposal arrives via e-mail to lkee@nndoj.org and jwerner@nndoj.org by the date and time specified above.

SECTION II

QUALIFICATIONS

Respondents shall identify all relevant qualifications to provide the Litigation, Administrative Outreach, and Lobbying Legal Services. The proposal should specifically address the degree of experience or expertise the applicant possesses in the following areas:

- Demonstrated experience and knowledge of Indian Law;
- Demonstrated experience, knowledge, and success dealing with federal administrative offsets under the Debt Collection Improvement Act, the Federal Medical Care Recovery Act, and/or the Contract Disputes Act;
- Demonstrated experience, knowledge, and success dealing with disputed matters involving the regulations of the U.S. Treasury, U.S. Department of Health and Human Services (“HHS”) and Indian Health Service (“IHS”), and U.S. Department of Agriculture (“USDA”);
- Demonstrated experience, knowledge, and success in cases opposing federal administrative offsets under the above statutes and regulations;
- Previous involvement working with officials of the U.S. Treasury, HHS, IHS, and/or USDA;
- Previous involvement working with U.S. Treasury officials compromising claims;
- Previous experience lobbying U.S. Treasury or other federal agencies; and
- Ability to work collaboratively as co-counsel with in-house legal counsel.

SECTION III

INSTRUCTIONS TO BIDDERS

- A. **REJECTION OF PROPOSALS:** The Navajo Nation Department of Justice reserves the right to reject any or all proposals and to waive all informalities and minor irregularities in receiving proposals.

Request for Proposal – Litigation, Administrative Outreach, and Lobbying Legal Services to the Navajo Nation Department of Justice

Issued: October 28, 2016; Reissued November 2, 2016

Page 3 of 5

- B. PROPRIETARY INFORMATION: Any restrictions on the use of data contained within any proposals must be clearly stated in the proposal itself. (Proprietary information submitted in response to this RFP will be handled in accordance with the Navajo Navajo Privacy Act). Each and every page of the proprietary material must be labeled or identified with the word "PROPRIETARY."
- C. RESPONSE MATERIAL OWNERSHIP: All material submitted regarding this RFP shall become the property of the Navajo Nation and will not be returned to the Respondent. Responses received will be retained by the Department of Justice and may be reviewed by any person after final selection has been made, subject to Paragraph B above.
- D. COSTS INCURRED: There is no express or implied obligation for the Navajo Nation to reimburse Respondents for any expenses incurred in preparing responses to this RFP and the Navajo Nation will not reimburse Respondents for these expenses, nor will the Nation pay any subsequent costs associated with the provision of any additional information or presentation, including costs incurred to interview with the selection team, or to otherwise procure a contract for these services.
- E. ACCEPTANCE OF PROPOSAL CONTENT: The content of the proposal will become contractual obligations if a contract award is made. Failure of the successful Respondent to accept these obligations may result in cancellation of the award and such Respondent may be removed from consideration for future Navajo Nation solicitations. The Navajo Nation Department of Justice reserves the right to pursue appropriate legal action in the above set of circumstances.
- F. TERMS AND CONDITIONS: Respondent will be expected to agree to the Navajo Nation Department of Justice's standard terms and conditions for outside counsel contracts.
- G. GOVERNING LAW: The review of this RFP will be reviewed in compliance with applicable Navajo Nation laws.
- H. INTERVIEWS: The Department of Justice intends to make a selection of one or more firms to interview after evaluation of the proposals. Interviewees will be notified by email.
- I. SELECTION: The Department of Justice will select one or more firms to award an attorney contract to perform the work set forth in the Scope of Work after completion of interviews. Selected firms will be notified by email.
- J. EVALUATION PROCEDURES AND CRITERIA:

Request for Proposal – Litigation, Administrative Outreach, and Lobbying Legal Services to the Navajo Nation Department of Justice

Issued: October 28, 2016; Reissued November 2, 2016

Page 4 of 5

1. A selection team will evaluate the proposals received in accordance with the general criteria used herein. Respondents should be prepared to provide any additional information the team feels necessary to the fair evaluation of proposals.
 2. Failure of Respondent to provide any information requested in the RFP may result in disqualification of the proposal. All proposals must be endorsed with the signature of an official who has the authority to bind the Respondent to the execution of a contract.
 3. The sole objective of the selection team will be to identify the Respondent who is most qualified to fulfill the Scope of Work set forth herein and who meets the Qualifications set forth above. The specifications in this RFP represent the minimum performance criteria necessary for a response.
 4. Financial Factors: Proposed costs will be evaluated not only to determine if the estimate is reasonable, realistic and cost effective, but also to determine the Respondent's understanding of the Scope of Work and ability to organize and perform the contract. Cost and price factors will not be numerically weighed and scored, but will be considered as part of the overall response.
- K. STANDARD CONTRACT: The Navajo Nation reserves the right to incorporate standard contract provisions into any contract negotiations as a result of a proposal submitted in response to this RFP. This RFP does not constitute a contract.
- L. RETURN OF DOCUMENTS: The Navajo Nation has no obligation to return any proposals received in response to this RFP.
- M. TERM: The term of the contract will be open-ended, subject to available funds, and will terminate when the objective of the Scope of Work is achieved. The contract may be terminated by either party with thirty (30) days' notice to the other party.

SECTION III

A. PROPOSAL CONTENTS

1. 1. Identification of the name and title of the person authorized to negotiate the contract on behalf of the firm; and
2. A brief description of the firm and its areas of specialty, including identification of the primary office the firm will deliver services from; and
3. A description of how the firm meets the qualifications to perform the work described in the Scope of Work set forth herein; and
4. Certification as to the firm's level of expertise with respect to Federal Indian law and Navajo law; and

Request for Proposal – Litigation, Administrative Outreach, and Lobbying Legal Services to the Navajo Nation Department of Justice

Issued: October 28, 2016; Reissued November 2, 2016

5. Identification of and biographies and/or resumes of the legal team that will conduct the work described in the Scope of Work; and
6. Identification of fees associated with individual team members; and
7. Identification of expenses the firm will charge; and
8. Signature by the individual authorized to contractually obligate the firm.

B. INSTRUCTIONS TO THE RESPONDENT

Any proposal that does not adhere to this format and that does not address each requirement, the Scope of Work, and the required Qualifications set forth in this RFP may be deemed non-responsive and the proposal may be rejected on that basis.