



December 2, 2016
REQUEST FOR PROPOSAL
FOR FEDERAL LITIGATION COUNSEL TO THE NAVAJO NATION ON
NAVAJO-HOPI LAND SETTLEMENT ACT RELOCATION BENEFIT DENIALS

PROPOSAL DUE DATE: Friday, December 16, 2016 at 5:00PM MT

CONTACT PERSON: Susan Eastman, Principal Attorney/Director
Navajo-Hopi Legal Services Program
(928) 283-3301

E-MAIL PROPOSALS TO: seastman@nndoj.org
lkee@nndoj.org

A. Scope of Work.

The selected Respondent will represent the Navajo Nation in federal appeals of benefit denials made by an independent federal commission. Respondent will also provide coordination, consultation, advice, and recommendations on related pending suits. Respondent may also provide advice, consultation and representation on Breach of Trust and/or Breach of Fiduciary Duty against this same federal commission on behalf of individual Navajos and the Navajo Nation as a whole. Most claims will relate to denials of relocation benefits due individual Navajos who were relocated pursuant to the Navajo-Hopi Land Settlement Act.

The Navajo Nation Department of Justice will be accepting proposals for this service postmarked by 5:00 PM MT on Friday, December 16, 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 this scope of work, and your timekeeping and invoicing practices. If you intend to engage outside consultants or co-counsel, provide comparable information regarding 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, and the precise nature of any potential conflict. A conflict of interest may include whether you or your firm currently represent any other tribes, governmental, or private interests that may impact the Navajo Nation with

respect to contracting, leasing or employment matters against the Navajo Nation. Please also disclose any legal work you currently provide to the Nation or its affiliates.

SECTION I

SCHEDULE OF ACTIVITIES AND CONTACT

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|---|--------------------------------------|
| 1. Due Date for Proposals | Friday, December 16
at 5:00 PM MT |
| 2. Anticipated Date for Selection of Interviewees | Wednesday, December 21 |
| 3. Anticipated Date for Award of Contract | Friday, January 6 |

Prospective Respondent may make inquiries to Susan Eastman, Principal Attorney/NHLSP Director, up to Thursday, December 15, 2016 at 12:00 PM MDT. Any 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 seastman@nndoj.org, and lkee@nndoj.org prior to the date and time specified above.

SECTION II

QUALIFICATIONS

Respondents shall identify all relevant qualifications to litigate appeals of individual benefit denials made by an independent federal commission, as well as provide coordination, consultation, and advice on pending related federal lawsuits. Anticipated litigation may also include a breach of trust claim against the commission. Respondent should address the degree of experience or expertise Respondent possesses in the following areas:

- Litigation against federal agencies or independent commissions under the APA and the U.S. Constitution on behalf of individuals
- Litigation of breach of trust or breach of fiduciary duty claims against the United States
- The Navajo-Hopi Land Settlement Act
- Navajo relocation
- Federal Indian Law
- Navajo Law
- Appellate litigation

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.
- B. **WITHDRAWAL OF RFP:** The Navajo Nation Department of Justice reserves the right to withdraw this RFP at any time, and is not obligated to award a contract pursuant to this RFP. Additionally, the Navajo Nation Department of Justice may adjust the Schedule of Activities without notice to Respondents.
- C. **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 Navajo Privacy Act). Each and every page of the proprietary material must be labeled or identified with the word "PROPRIETARY."
- D. **RESPONSE MATERIAL OWNERSHIP:** All material submitted regarding this RFP shall become 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.

- E. **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.
- F. **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.
- G. **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.
- H. **GOVERNING LAW:** The review of this RFP will be reviewed in compliance with applicable Navajo Nation laws.
- I. **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.
- J. **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.
- K. **EVALUATION PROCEDURES AND CRITERIA:**
 - 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 or by the selection team may result in disqualification of the proposal. All proposals must be endorsed with the signature of an official with 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 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 offeror's understanding of the scope of work and ability to organize and perform the contract. Pricing factors will not be numerically weighed and scored, but will be considered as part of the overall response.

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 any contract negotiated as a result of a proposal submitted in response to this RFP will be set forth by the Attorney General.

SECTION IV

A. PROPOSAL CONTENTS

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
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.