

**REQUEST FOR QUALIFICATIONS
FOR
Special Counsel:
Department of Law
& Public Safety,
Division of Law**

**Issued by the
State of New Jersey
Department of Law & Public Safety**

**Date Issued:
April 3, 2008**

**Question and Answer Cut-off Date:
June 18, 2008**

**Proposals Due:
July 9, 2008**

**Anne Milgram
Attorney General**

**Robert Gilson
Director, Division of Law**

**State of New Jersey
Department of Law and Public Safety
Richard J. Hughes Justice Complex
25 Market St.
Trenton, NJ 08625**

**REQUEST FOR QUALIFICATIONS (“RFQ”)
FOR
Special Counsel for Certain Practice Area Designations**

1.0 PURPOSE AND INTENT

The Attorney General of New Jersey, through the Department of Law and Public Safety, Division of Law (“the Attorney General”), serves as the legal representative and counsel for the departments, boards, offices, commissions and other instrumentalities of State government, its officers and employees. The Attorney General intends to retain outside counsel interested in serving as special counsel, under the direction and control of the Division of Law, in the area of federal energy regulation.

The term of the special counsel designations made pursuant to this RFQ will be two years.

1.1 PROPOSAL SUBMISSION

A sealed original and three sealed copies of the proposal must be marked “Special Counsel RFQ” and delivered or post marked no later than 11:59 p.m. on July 9, 2008 to the following:

MARGARET COMES
DEPUTY ATTORNEY GENERAL
DIVISION OF LAW
124 HALSEY STREET 5TH FLOOR
P.O. BOX 45029
NEWARK, N.J. 07101

Proposals may not be delivered by fax or e-mail.

1.2 QUESTION AND ANSWER

The Division of Law will accept questions pertaining to this RFQ from all potential bidders electronically. Questions shall be directed to Leslie Gore, AAG, at the following email address:

RFQUESTIONS@DOL.LPS.STATE.NJ.US

Questions will be accepted until **5:00pm on June 18, 2008**. Please note that the "Subject" line of your email must specify the practice area of the RFQ your question pertains to.

In the event that it becomes necessary to clarify or revise this RFQ, such clarification or revision will be by addendum. Any addendum to this RFQ will become part of this RFQ and part of any designation of a firm as special counsel as a result of this RFQ.

ALL RFQ ADDENDA WILL BE POSTED ON THE DEPARTMENT OF LAW AND PUBLIC SAFETY’S WEB SITE.

It is the sole responsibility of the bidder to be knowledgeable of all addenda related to this RFQ.

The Attorney General reserves the right to reject any and all proposals received in response to this RFQ, when determined to be in the State's best interest, and to waive minor noncompliance in a proposal. The Attorney General further reserves the right to make such investigations as she deems necessary as to the qualifications of any and all firms submitting proposals in response to this RFQ. In the event that all proposals are rejected or if the Attorney General, at any time, deems the number of qualified firms receiving designations as the result of this RFQ to be insufficient to meet the potential needs of the Division of Law, the State reserves the right to re-solicit proposals.

2.0 RFQ SCOPE OF SERVICES

The Attorney General wishes to have access to counsel with substantial experience in the practice areas of wholesale ratemaking, competitive wholesale markets, transmission planning, transmission cost allocation, and regulatory policy in the electricity and natural gas industries (collectively, the Practice Area). Particular expertise is necessary in areas pertaining to the Federal Energy Regulatory Commission (FERC), PJM Interconnection, L.L.C. (PJM), the United States Department of Energy (USDOE), as well as experience in federal judicial appeals. Counsel must also be free of any conflict of interest, and must comply with the conflicts policy referred to in section 3.1.

On all aspects of the retention, counsel must work in consultation with appropriate New Jersey Board of Public Utilities' staff and/or Commissioners, as well as appropriate members of the Attorney General's Office. Retention may include the following:

a) Identification, monitoring, reporting, and analysis of significant developments at the FERC, PJM and the USDOE that have significant potential to affect the cost of electricity or natural gas to New Jersey customers, and/or the reliability of the supply of electricity or natural gas to New Jersey customers;

b) In notice and comment proceedings with respect to such significant developments, preparing written comments and/or delivering oral testimony or presentations;

c) Litigating or otherwise appearing in proceedings before the FERC, USDOE and in the judicial system with respect to matters that have significant potential to affect the cost of electricity or natural gas to New Jersey customers, and/or the reliability of the supply of electricity or natural gas to New Jersey customers. Such litigation or appearances may involve drafting pleadings, motions, briefs, and all other papers to be filed at the agency or in court; conducting and responding to discovery; attending pre-hearing, hearing and post-hearing appearances; retaining experts, subject to the approval of the Board of Public Utilities and of the Attorney General's Office; conducting settlement negotiations and handling appeals. Counsel may be asked to handle any or all issues arising in the litigation or proceeding. Counsel may also be asked to work in cooperation with counsel for other parties in such litigation or proceeding, including sharing of any of the responsibilities described above.

3.0 REQUIRED COMPONENTS OF THE RFQ PROPOSAL

Proposals must respond to each of the following requests in the order indicated. Please provide the information requested below for all counsel who may perform any of the requested services. Firms may apply to provide all of the services in 2.0(a), (b) and (c) or may apply to provide only the services in 2.0(a) or only the services in both 2.0(b) and (c).

3.1 FIRM PROFILE AND EXPERIENCE

- A. Indicate the date your firm was established.
- B. Describe the legal services provided by your firm.
- C. Describe your firm's specialty and/or area(s) of expertise.
- D. Identify the number of employees in your firm (licensed attorneys; legal support staff; other support staff).
- E. Describe the participation of women and minorities in your firm. Please note the number of women partners and associates and minority partners and associates and indicate the percentage of your firm that is owned by women and by minorities.
- F. Describe any special training or experience members of your firm possess that may assist in providing the requested legal services.
- G. Explain how your firm develops estimates of the total cost of representing a client in a litigation matter, including the cost of experts as needed, and estimates of the total cost of preparing written comments and delivering oral testimony on behalf of a client in a notice-and-comment proceeding. Include in the estimate your firm's procedures for evaluating and disclosing the level of uncertainty in such cost estimates.
- H. Identify any agencies or departments of the State of New Jersey represented by the firm during the last five (5) years. For each agency or department, provide the name of the agency or department, a description of the matter or matters that the firm worked on for the agency or department, the dates of the engagement and the name and contact information of the State employee responsible for overseeing the work of the firm on that matter.
- I. Identify any State agencies or departments before or against which the firm has regularly appeared on behalf of other clients. Please note that the State, as a public entity, is precluded by the Rules of Professional Conduct from waiving conflicts of interest. See RPC 1.7(a)(2) and RPC 1.7(b)(2).
- J. In evaluating the possibility of conflicts of interest, counsel are directed to review the August 2, 1984 Opinion Letter of Attorney General Irwin I. Kimmelman (attached). If your firm is designated as special counsel, you have a continuing obligation to disclose to the Attorney General of New Jersey any actual or potential conflicts. Additionally, retained counsel must agree not to undertake any future representation that might result

in the disclosure of the State's work product to potential or actual adversaries of the State.

- K. Identify any governmental entities, agencies, or political subdivisions, other than the State of New Jersey, that the firm represents or has represented. Include the time period during which the firm represented each such agency and the nature of the work performed.
- L. Describe the firm's approach to maintaining responsive communication with the Division of Law and keeping the State informed of problems and progress.
- M. Provide a representative listing of the firm's major private and public sector clients.
- N. Identify two or more federal judges before whom the firm's litigators regularly appear.
- O. Provide the name, address, telephone number, e-mail address, and facsimile number for the contact person in your firm.

3.2 LITIGATION QUALIFICATIONS AND EXPERIENCE IN THE PRACTICE AREA.

- A. Identify and give the office location of each attorney who practices in the Practice Area. Please indicate what percentage of your firm's practice is in the Practice Area.
- B. List all attorneys in your firm that have at least five years experience in litigation pertaining to the Practice Area.
- C. Describe your firm's experience in litigation pertaining to the Practice Area, by listing cases litigated involving this practice area since 2000 (identifying by case name and legal citation, if any), including the result of such litigation.
- D. State the qualifications and experience of the particular attorneys proposed to staff the work. For each attorney that would be involved in handling the work as special counsel on behalf of the State, provide a detailed resume including information as to:
 - a. Education, including advanced degrees;
 - b. Years and jurisdictions of admission to practice;
 - c. Number of years engaged in litigation practice in the Practice Area;
 - d. General work experience (including an indication of whether the individual has tried any cases and, if so, approximately how many);
 - e. Any professional distinctions in litigation (e.g., trial certification, teaching experience);
 - f. Area(s) of specialization; and
 - g. Office location of the attorney.

- E. If special counsel would expect to retain any particular experts to assist in providing the services listed in 2.0(a) and/or (b) and (c), provide the experts' detailed resumes, including information as to:
- a. Education, including advanced degrees;
 - b. Work experience (including work experience in supporting litigation);
 - c. Number of years of work experience relevant to the services listed in 2.0(a), (b), and (c);
 - d. Any professional distinctions;
 - e. Any publications; and
 - f. Area(s) of specialization.
- F. Describe the role that each particular attorney listed in D above would play in providing the services listed in 2.0(a) and/or (b) and (c), and the approximate percentage of the work that each would perform. Percentages for junior lawyers may be listed separately or in the aggregate.

3.3 OTHER QUALIFICATION INFORMATION

- A. Identify all adverse determinations against your firm or any of its partners, associates or employees or persons acting on its behalf, with respect to actions, proceedings, claims or complaints of any kind under any local, State or Federal laws, regulations, court rules, or Rules of Professional Conduct.
- B. Identify and describe in detail any indictments, convictions or civil offenses arising directly or indirectly from the conduct of business by your firm or any of its partners, associates, employees, or agents.
- C. Identify any material arrangements, relationships, associations, employment or other contacts that may cause a conflict of interest or the appearance of a conflict of interest if your firm acts as litigation counsel to the State of New Jersey or any of its departments, offices, or divisions.
- D. Identify your firm's malpractice insurer and describe the insurance limits.
- E. Confirm that your firm covers litigation costs, any bonds required by a court, and any potential liability under Fed.R.Civ.P. 11.
- F. Confirm that your firm agrees to abide by the Standards for Submittal and Review of Special Counsel Invoices.
- G. Confirm that upon selection as special counsel your firm will provide all vendor certifications required by Public Law 2005, Chapters 51 and 271.

3.4 ADDITIONAL INFORMATION

The forms listed below must be completed and submitted with the bid proposal. They can be downloaded from the Department of Treasury website:

<http://www.state.nj.us/treasury/forms.html#pb>

- Ownership Disclosure
- MacBride Principles and Northern Ireland Act of 1989
- Vendor Certification - Executive Order #129 Compliance

NOTE: A copy of a valid New Jersey Business Registration must be submitted. If not already registered with the New Jersey Division of Revenue, registration can be completed on line at the Division of Revenue website: <http://www.state.nj.us/treasury/revenue/index.html>

4.0 FEES

State the fixed monthly rate at which you would provide the services listed in 2.0(a) and/or the hourly rates at which the personnel listed below would provide the services listed in 2.0(b) and (c):

Partner:

Associate:

Clerks and law assistants (summer associates or law school graduates awaiting bar results)

Paralegals

Experts

Before commencing provision of any of the services listed in 2.0(b) or (c) in a particular matter, Special Counsel will provide the State with a non-binding estimate of the total cost of providing the services in connection with that matter.

5.0 ADDITIONAL TERMS

- A. No endorsement: Designation as special counsel does not constitute an endorsement by the State of New Jersey, the Attorney General or the Department of Law and Public Safety.
- B. Effect of RFQ response: A response to this RFQ will not bind or otherwise obligate the State of New Jersey to include the responding firm on the list of special counsel.
- C. Effect of Inclusion on List: Inclusion of a firm on the list of designated counsel will not bind or otherwise obligate the State of New Jersey to retain the listed firm for legal services. Inclusion on the list of designated counsel will not guarantee any other form of employment or engagement.
- D. Attorney General authority not constrained: Nothing in this RFQ is intended to limit or constrain the discretion of the Attorney General in exercising any authority, duty, prerogative or power established or recognized by the Constitution, statutes, Executive Orders, regulations, or case law.

6.0 SELECTION PROCESS

All proposals will be reviewed to determine responsiveness. The Attorney General may reject non-responsive proposals without evaluation, but may waive minor non-compliance. An Evaluation Committee will evaluate responsive proposals. The Evaluation Committee will have a minimum of three members, and may include a representative of the New Jersey Board of Public Utilities whose cases the selected firms may be handling. The following evaluation criteria categories, separate or combined in some manner, and not necessarily listed in order of significance, will be used to evaluate proposals received in response to this RFQ:

- Knowledge and experience of attorneys in the practice area;
- Experience of the firm in the practice area;
- Resources of the firm;
- Approach to communication with the Department of Law; and
- Past experience of the State with the firm and/or attorneys.

Proposals will be ranked based on technical merit and the highest scoring firms offering the best value to the State will be recommended for selection. One firm will be selected for the provision of services in 2.0(a) and one or more firms will be selected for the provision of services in 2.0(b) and (c). A firm selected to provide the services in 2.0(a) may also be selected to provide services in 2.0(b) and (c).

