



**APPOINTMENT TO THE VENTURE CAPITAL & EMERGING BUSINESS FINANCING
COUNSEL POOL**

1. Although we represent NJDOI [New Jersey Division of Investment] and NJOAG [New Jersey Office of the Attorney General] in another pool, we want to confirm the following are the only other entities we will need to run conflict checks on for the RFQ:
 - a. New Jersey Department of Law and Public Safety, Division of Law
 - b. New Jersey Economic Development Authority?

Further to my email below [with the above question], I believe the only party for which we need to run conflicts is New Jersey Economic Development Authority and not the Division of Law. Please confirm you agree.

The RFQ provides in section 6.1.I: "Identify any State agencies or departments before or against which the firm has regularly appeared on behalf of other clients and identify any potential conflicts of interest arising from representation of the Authority. Please note that State entities, including the Authority, as public entities, are precluded by the Rules of Professional Conduct from waiving conflicts of interest. See RPC 1.7(a)(2) and RPC 1.7(b) (2)."

And in 6.3.C: "Identify any material arrangements, relationships, associations, employment or other contacts, including but not limited to any board of director position in a New Jersey technology or life science company that may cause a

conflict of interest or the appearance of a conflict of interest if your firm acts as counsel to the Authority."

For purposes of the RFQ, the firm must (1) identify any State agencies or departments before or against which the firm has regularly appeared on behalf of other clients and (2) identify any potential conflicts of interest arising from representation of the New Jersey Economic Development Authority. At the time our office seeks to retain a firm for a specific State agency, the firm must check for conflicts for that specific State agency.

2. In 6.2(G) of the RFQ there is a reference to the name and contact information of three (3) former clients who are lenders or limited partners that can serve as references. We would not expect that NJ would want us to seek out former clients who are no longer being represented by [our firm]. Is this what you intended? Or can we secure references from existing clients who we may have an ongoing matter in process or may be dormant but are still a client of the firm. Please let us know.

Section 6.2(G) of the RFQ is revised to state that the reference can be from "former or current clients."

My firm, [name of firm], would like to apply to the Special Counsel for Venture Capital & Emerging Business Financing Counsel Pool. However, [firm] does not have a NJ office or lawyers based in NJ, although we have VC specialists that live in or are qualified in NJ (myself included). Is having an office and lawyers in NJ necessary or preferred for this application?

Section 6.1.G requires a description of the firm's presence in New Jersey if there is one; however, there is no requirement for the firm to have an office in New Jersey.

3. My office is interested in making a submission in connection with upcoming RFQ to potentially act as special counsel in venture capital and emerging business financing matters. In anticipated preparation of same we have the following questions:

1. Would we be able to obtain a brief description or outline of the potential practice areas involved---i.e. real estate transactions, lender financing, land use matters, etc.?
2. Is there a list of items and/or documentation that are required to be submitted as part of the application process?
3. Will placement on the outside counsel list be for a specific term/timeframe?
4. Will there be annual or periodic updates to the qualifications for approved counsel??

The RFQ has been posted at <https://www.njoag.gov/request-for-qualifications-process-portal/rfq-venture-capital/>. The RFQ provides the answers to the questions posed.

4. How important is it for the winning firm to have a presence in New Jersey? While we have significant experience in the venture capital/investment area, we do not have a physical office in New Jersey. Our New York office often covers client needs in this area.

Section 6.1.G requires a description of the firm's presence in New Jersey if there is one; however, there is no requirement for the firm to have an office in New Jersey. The criteria that will be used to evaluate a proposal are listed in Section 8.1.

5. For a list of team members proposed, how important is to be licensed in New Jersey? We have a number of VC/M&A lawyers throughout the firm, however very few are licensed in New Jersey.

Section 6.1.G requires that the firm note "whether attorneys not licensed in the State of New Jersey will be assigned to provide any of the requested legal services if your firm is appointed to the Pool pursuant to this RFQ." The criteria

that will be used to evaluate a proposal are listed in Section 8.1. Whether the firm retained must have an attorney licensed in New Jersey will depend on the scope of retention for a specific transaction, including, but not limited to, the need for an opinion of counsel with regard to New Jersey.

6. What fee arrangement types are preferred? What level of discounts would you expect to see on a proposal?

Section 6.5 describes the submission of the firm's fee, including, but not limited, to the requirement to submit hourly rates and that escalators are not permitted and will not be considered.

Additionally, Section 4.1 explains: "In the event the Pool is established, firms will be selected on a rotating basis for specific transactions (except as described below), subject to a conflict review, and fee caps will be determined in accordance with the Outside Counsel Guidelines as further described in Section 6.6 herein." The reference in that sentence is incorrect, and the RFQ is being revised to change that reference to "Section 6.5."

Section 6.5.B is being revised for further clarity as follows: **"Please understand that in certain instances, in accordance with the Outside Counsel Guidelines, the Attorney General may engage Special Counsel using the blended hourly rates in the firm's proposal with a fee cap setting forth the particular services being requested. Please note that any deviation from the specific matter fee cap established for the particular services will be considered only as set forth in the Outside Counsel Guidelines."**

7. Can you provide some insight on historical fees for each of the deal types? It would be helpful to understand what amounts NJEDA typically budgets for these types of matters, along with any fee cap details you can provide.

The scope of services envisions many different possible matters, and the fee cap will depend on the specific services sought for a particular matter. Additionally, no fee cap is being requested in responses to the RFQ. See answer to question #6 above for more information regarding fee caps.

8. Since we are already in a working relationship with NJEDA, will we need to still provide many of the business documents highlighted in the training video overview? Such as a W-9 and other related business solvency information?

Firms must comply with all requirements stated in the RFQ, including, but not limited to Exhibit A, with regard to submission of documents in response to the RFQ.