

Colorado Department of Law
Office of the Attorney General, Philip J. Weiser
RALPH L. CARR, COLORADO JUDICIAL CENTER
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REQUEST FOR INFORMATION

The Colorado Department of Law (“DOL”) announces this Request for Information (RFI) for law firms to provide the State of Colorado (Colorado) with their qualifications to provide legal counsel services for the investigation and potential litigation against parties engaged in the manufacture, processing, testing, distribution, use, or disposal of Per- and Polyflouroalkyl substances (“PFAS”) causing contamination in the State’s groundwater, surface water, and other natural resources (the “Services”). The DOL is seeking a law firm to represent Colorado, ex rel. Philip J. Weiser, Attorney General (and serve as Special Assistant Attorneys General) with respect to the Services.

At present, the Colorado Department of Public Health and Environment (“CDPHE”) has tested drinking water throughout Colorado and found detectable levels of these chemicals. In addition, CDPHE is currently collecting data on PFAS at certain hazardous and solid waste sites for PFAS and from certain clean water permitted dischargers.

Scope: The Services will be supervised by the DOL, by DOL staff who do not provide day-to-day legal representation and counsel regarding the Services, and will include:

Assisting the Attorney General in pursuing nuisance, tort, or other claims against parties engaged in the manufacture, processing, testing, distribution, use, or disposal of PFAS or PFAS containing products. Such assistance to include:

- (1) Investigate and assess claims against parties engaged in the manufacture, processing, testing, distribution, use, or disposal of PFAS or products containing PFAS.
- (2) Prepare and prosecute litigation against potentially liable parties.
- (3) Assist in all phases of the investigation and litigation, including but not limited to:
 - a. pursue all claims and actions in connection with a litigation strategy approved by the Attorney General;

- b. identify viable claims and causes of action;
 - c. identify possible defendants;
 - d. prepare and draft pleadings;
 - e. draft and respond to motions;
 - f. draft and respond to written discovery;
 - g. take and defend depositions;
 - h. identify and prepare lay witnesses;
 - i. identify, retain, and prepare expert witnesses;
 - j. coordinate litigation with other states and the federal government to promote, to the extent beneficial, a unified approach to litigation;
 - k. represent Colorado in trial or any settlement negotiations;
 - l. represent Colorado in any appeal of any judgment or verdict rendered in the action, and if applicable, any remand from appeal;
 - m. prosecute collections of any judgment, including post-judgment discovery.
- (4) Regularly advise the Attorney General on the status of the investigation or litigation and on strategy and tactics for each phase of the case.

Submissions: Interested firms should respond to this RFI by submitting a written proposal setting forth the firm's qualifications and proposed workplan by addressing the following:

- (1) Identify persons who would be involved in performing all portions of the Services, including the nature of the work each individual would perform, together with a brief description of the individual's relevant experience and knowledge of federal and state laws pertinent to the Services.
- (2) Provide a description of how the firm intends to provide the Services including, but not limited to, meeting the scope of Services, the method or approach to client relations, providing legal analysis, identifying and interviewing witnesses, coordinating and disseminating information, and oral and written communication strategy.
- (3) Provide a fee proposal. The fee proposal must include individual hourly rates and other costs and the extent to which such fees and costs are discounted for government clients. Delineate anticipated costs and fees anticipated in completing the Services. Provide an estimated budget for completion of the Services. Alternative fee proposals including blended, fixed, not to exceed, contingent, or success fee arrangements are welcomed. Contingent fee contracts must comply with C.R.S. § 13-17-304.
- (4) State whether the firm has in place a diversity and inclusiveness program. If so, provide a detailed narrative of the firm's diversity and inclusiveness principles and program. Firms are encouraged to provide a diverse team of individuals to perform the Services.
- (5) Disclose any relationship or involvement with or adverse to Colorado or any other party that could create or appear to create an actual or perceived conflict

of interest if the firm is retained to perform the Services. Please identify all other clients you are representing on PFAS matters.

- (6) Provide any engagement terms for the DOL's consideration.
- (7) Describe your firm's experience in providing advice and guidance regarding complex civil and environmental litigation to public sector entities.
- (8) Describe any relevant representation against or in defense of parties engaged in the manufacture, processing, testing, distribution, use, or disposal of PFAS or PFAS containing products.
- (9) Describe your firm's financial capacity to sustain an investigation, and complex and protracted litigation and appeal.
- (10) Specify the type of malpractice or errors and omissions insurance that your firm carries and the limits of coverage.
- (11) Provide a listing of any professional sanctions or other pending or threatened governmental or regulatory proceedings which would have an adverse impact on the firm or any member of the firm in its performances of the Services.
- (12) Describe any other special relevant resources or experience.

All information submitted to the DOL will be subject to the Colorado Open Records Act ("CORA"), unless the DOL determines in its sole discretion that an exception under CORA applies.

Proposals may be submitted no later than 5:00 p.m. MST on September 1, 2021. Proposals should be submitted in pdf format to the DOL's Procurement Team via email at procurement@coag.gov, and any questions also should be sent to that email address.

Selection Process: Once the deadline for submission of proposals has passed, the DOL will review the proposals and deliberate to determine the award of a contract for the Services. The DOL may follow up with firms for additional information needed to make its determination. Any contract award by the DOL will be made based upon the best interest of the State, as determined by the DOL in its sole discretion. Firms will have no right to appeal a determination by the DOL. An award by the DOL under this RFI does not constitute a contract and is conditioned upon the mutual execution of a written agreement by the parties.

Contract Terms: As a State of Colorado agency, the DOL is required by law to ensure certain terms and conditions are included, or not included, in any contract into which it enters. The DOL is willing to consider engagement terms the awarded firm proposes to include in the contract for the Services, provided the terms are allowable by law. Once the DOL has determined a firm is reasonably susceptible to be awarded a contract, the DOL will provide a copy of the DOL's standard contract terms to the firm and initiate contract negotiations. Failure by the DOL and the awarded firm to successfully execute a contract will result in the revocation of the award by the DOL in its sole discretion.

