

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



REQUEST FOR QUALIFICATIONS (RFQ)

TO: **POTENTIAL RESPONDENTS**

RFQ Number: **DCCB-2023-L-0044**

Caption: **Outside Legal Counsel – Advisory Services**

Issuance Date: **June 28, 2023**

Response Due Date: **July 11, 2023**

The Office of the Attorney General for the District of Columbia (OAG) on behalf of the District of Columbia Office of Contracting and Procurement is issuing this Request for Qualifications (“RFQ”) to solicit Statements of Qualifications (“SOQ”s) from interested attorney(s) to assist in writing “Rights in Data” clauses to be used in District of Columbia contracts.

1. SUBMISSION OF STATEMENT OF QUALIFICATIONS

Interested respondents should submit the following no later than 2:00 pm on July 11, 2023, to gena.johnson@dc.gov. The submission should be no longer than seven (7) pages (excluding resumes) and include:

1. A short statement of interest and availability;
2. A description of the respondent’s qualifications, in particular whether the respondent meets these minimum qualifications:
 - Juris doctor degree with a minimum of five years’ experience in intellectual property law with emphasis on rights in data matters including current policy issues surrounding such rights in government contracting;
 - Extensive experience drafting and negotiating contract terms including rights in data terms;
 - Experience working with and providing consulting and advisory related services to public sector agencies and government contractors;
 - Working knowledge of federal and/or District procurement laws and regulations;

- Excellent oral, written, technical and interpersonal skills; and
 - Strong attention to detail;
3. A proposed staffing model for the work;
 4. Resumes for the attorneys who would handle these services;
 5. Certified Business Enterprise status; and
 6. Disclosure of any actual or potential conflicts of interest.

2. DESCRIPTION OF SERVICES

2.1 SCOPE

The District of Columbia Government, Office of Contracting and Procurement (OCP), Office of the General Counsel and Procurement Division is seeking legal advisory services from attorney(s) with considerable expertise and experience working with government entities and government contractors in complex intellectual property rights matters with emphasis in rights in data.

The selected contractor shall have the following:

- Juris doctor degree with a minimum of five years' experience in intellectual property law with emphasis on rights in data matters including current policy issues surrounding such rights in government contracting;
- Extensive experience drafting and negotiating contract terms including rights in data terms;
- Experience working with and providing consulting and advisory related services to public sector agencies and government contractors;
- Working knowledge of federal and/or District procurement laws and regulations;
- Excellent oral, written, technical and interpersonal skills; and
- Strong attention to detail.

2.2 BACKGROUND

OCP has approximately 230 employees providing procurement support to 78 District agencies. OCP's Office of the General Counsel provides legal services to the agency that include procurement legal advice, drafting standard contract terms, and drafting solicitation templates. OCP also provides guidance on how to utilize the templates to formulate solicitations and contracts.

OCP has been experiencing challenges in purchasing critical intellectual property (IP) and information technology (IT) required for District agencies' use and needs legal expertise in this highly specialized area.

OCP includes a Rights in Data clause as part of its standard contract language. Currently OCP is reviewing and updating, as needed, all standard contract clauses. The goal of this procurement is to obtain a comprehensive "Rights in Data" clause to use in District government contracts for purchasing IT and IP, including developing custom products, licensing products and works for hire. The clause should be written in such a way that it is fair to both parties and will minimize the need for negotiations during the procurement process.

2.3 REQUIREMENTS

- 2.3.1 Upon contract award, the CA will provide the contractor with the current version of the District’s Rights in Data clause. Within two (2) business days of contract award, the contractor shall meet with the CA and designated OCP staff to finalize the project timeline and discuss the challenges that OCP has experienced with IP and IT procurements.
- 2.3.2 The contractor shall develop and draft two comprehensive “Rights in Data” clauses to use in District government contracts. One clause will be incorporated into the District’s template and the other will be a reasonable fallback.
- 2.3.2.1 The contractor shall provide a draft of the “Rights in Data” clauses to the CA for review within five (5) business days of contract award. The CA will provide feedback on the clause to the contractor within ten (10) business days of receipt of the draft.
- 2.3.2.2 The contractor shall incorporate any feedback received and provide a final version of the “Rights in Data” clause within five (5) business days of receipt of comments from CA.
- 2.3.3 The contractor shall develop and draft Guidance document on “Rights in Data” clauses that will be used as part of OCP’s solicitation/contract templates, as well as approaches in negotiations with vendors. The Guidance will instruct legal advisors on such topics as when to incorporate the clause, which provisions should not be negotiated to protect the District’s interest, and what scenarios could/would certain provisions within the clause be negotiated.
- 2.3.3.1 The contractor shall provide a draft of the Guidance to the CA for review within five (5) business days of final approval of the “Rights in Data” clauses. The CA will provide feedback on the Guidance to the contractor within five (5) business days of receipt of the draft.
- 2.3.3.2 The contractor shall incorporate any feedback received and provide a final version of the Guidance clause within five (5) business days of receipt of feedback from the CA.

2.4 ADVISORY AND ASSISTANCE SERVICES

The Contractor and the Contractor’s employees: (1) shall perform the services specified herein as independent contractors, not as employees of the government; (2) shall be responsible for their own management and administration of the work required and bear sole responsibility for complying with any and all technical, schedule, financial requirements or constraints attendant to the performance of this contract; (3) shall be free from supervision or control by any government employee with respect to the manner or method of performance of the service specified; but (4) shall, pursuant to the District’s right and obligation to inspect, accept or reject work, comply with such general direction of the CO, or the duly authorized representative of the CO as is necessary to ensure accomplishment of the contract objectives.

2.5 PERIOD OF PERFORMANCE

The period of performance shall occur from the contract award until September 30, 2023.

3. PREPARATION OF SUBMITTAL

Each submittal should be prepared simply and economically, providing a straightforward, concise description of your firm's ability to meet the requirements of this RFQ. Emphasis should be on completeness, clarity of content, responsiveness to the requirements, and an understanding of OCPs needs.

4. EVALUATION

This procurement will use a multi-step qualifications-based selection process. In step one, an Evaluation Panel appointed by the Contracting Officer, will evaluate each submitted response and determine if the respondent is “Qualified” or “Not Qualified”. In step two, the Contracting Officer will request a price quote from the respondent(s) considered the qualified to perform the work.

By submitting its response to this RFQ, Offeror accepts the evaluation process and acknowledges and accepts that determination of the “qualified” firm(s) will require subjective judgments by the District of Columbia.