



State of West Virginia
Office of the Attorney General

Patrick Morrissey
Attorney General

(304) 558-2021
Fax (304) 558-0410

**Request for Proposal for Legal Services
To Represent the West Virginia Health Information Network**

The West Virginia Health Information Network (hereinafter the "WVHIN") is seeking legal representation with expertise involving privacy and security issues related to the healthcare industry including the Health Insurance Portability and Accountability Act ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act ("HITECH") and its relationship to West Virginia healthcare law and the WVHIN. Qualified law firms or attorneys are invited to submit a proposal on or before April 4, 2014, to assist the Attorney General's Office with its representation of the WVHIN. Selection of a winning proposal, if any, will be made as soon as possible after April 4, 2014, with the representation to commence on July 1, 2014, for a period of one-year with a one-year option for renewal.

Background

The WVHIN and the Office of the Attorney General is in need of an attorney who can assist the WVHIN with the following matters:

- Develop WVHIN legislative rules, policies and procedures, including any needed updates and amendments;
- Develop and amend participation agreements and forms;
- Assist with the negotiation and review of contracts entered into by WVHIN;
- Review and analyze emerging privacy and security issues;
- Consult with WVHIN staff, committees, and Board of Directors on a variety of issues including, but not limited to HIE issues relating to WVHIN fee structure, patient access, and potential nonprofit status; and,
- Provide legal opinions, as needed, within WVHIN's scope of services.

Conflict of Interest Information

The attorney or firm should disclose any prior or current representations of (1) the WVHIN or (2) entities/individuals that may have interests that are, or are likely to become, adverse to the

interests of the WVHIN. Additionally, the attorney or firm should disclose any matter or information that could impact a conflict analysis for this potential client.

Scope of Representation

The client is the WVHIN. The WVHIN is responsible for any legal fees accrued for the services in question. The attorney or firm, if any, that is selected as a result of this process will work in close coordination and under the direct supervision of the Office of the Attorney General to provide the needed legal review and analysis for WVHIN as detailed in the "Background" section.

Your Proposal

No specific form is required of your proposal, but it should address those factors identified in the Attorney General's Outside Counsel Policy¹, and should also address your experience and demonstrated skill (via references, example documents, and/or a descriptive narrative) in the following areas:

- A. Knowledge of health information exchange ("HIE"), WVDirect, health information technology ("HIT") and WVHIN programs, policies and rules;
- B. Comprehensive understanding of West Virginia's healthcare environment;
- C. Prior experience in working with West Virginia hospitals of various size, rural clinics, physicians and mental health centers;
- D. Knowledge of how the HIPAA and HITECH laws relate to the WVHIN

¹ Pursuant to the Outside Counsel Policy, the Attorney General shall consider the following factors when determining the most competitive proposal for legal services:

- Whether the private attorneys possess the requisite skills and expertise needed to handle the legal matters in question;
- Whether the private attorneys possess requisite staffing and support to handle the scope of the litigation or matter;
- Whether the private attorneys, or any members of the private attorneys' law firm, have been subject to reprimand by the West Virginia State Bar, or other entities, for unethical conduct;
- Whether the private attorneys have been peer rated, and if so, what peer ratings they have received, along with any other recognitions or awards for legal services;
- The estimated fees, costs and expenses of the private attorneys to perform the legal services requested;
- The willingness of the private attorneys to enter into alternative billing arrangements;
- Whether the private attorneys are in compliance with all applicable laws of the State of West Virginia;
- Any potential conflicts of interest between the private attorneys and the State;
- Any relevant input from the state entity client, if applicable, regarding the needed legal services; and
- Any such other relevant factors as may be identified by the Attorney General.

and how it impacts the relationship between the WVHIN and its participating health care organizations; and,

- E. Lead counsel with a minimum of ten years experience in the areas set forth herein.

In addition, your proposal should disclose any (1) prior legal work you have performed for the WVHIN and (2) apparent potential conflict(s) with your existing or former clients.

WVHIN is seeking proposals for hourly rates for the needed legal services, which are not to exceed \$80,000.00. Please state any proposed rates separately for each attorney or paralegal to be assigned to this representation and indicate the approximate proportion of total time that will be billed at each rate. When possible, please indicate an estimated number of hours anticipated to complete the legal services in question.

Computerized legal research tools, such as WESTLAW or LEXIS, may not be billed as an expense. Please state your per-unit costs (if any) for expenses such as copying; whether you will bill for travel expenses to the WVHIN and at what rate; and whether and how you bill for attorney-time while traveling. Representations made in your proposal will supersede any conflicting terms that are less favorable to the client appearing in any written contract or invoice.

Evaluation and Acceptance

Your proposal will be evaluated by the Office of the Attorney General in consultation with the WVHIN. Your proposal should be addressed to the Office of Attorney General and emailed to rfpresponse@wvago.gov. Any and all proposals may be rejected.

This Request for Proposal shall be known as RFP # 021, and any and all correspondences relating to this Request for Proposal should reference RFP # 021. All proposals must be received by email no later than 5:00 p.m., on April 4, 2014. Any questions regarding this request for proposal should likewise be emailed to rfpresponse@wvago.gov.

Retention of the selected attorney or firm, if any, is conditioned upon execution of a written contract approved by the Attorney General. In no event will any such contract preclude the termination of the representation at any time by official action of the WVHIN.

Thank you for considering this Request for Proposal.