

NATIONAL SCHOOL BOARDS ASSOCIATION

REQUEST FOR PROPOSAL FOR LEGAL SERVICES

INQUIRIES AND PROPOSALS SHOULD BE DIRECTED TO:

Francisco M. Negron, Jr.
Chief Legal Officer
c/o Lenora Johnson
National School Boards Association
1680 Duke Street, FL 2 Alexandria,
VA 22314
ljohnson@nsba.org

I. GENERAL INFORMATION.

- A. **Purpose.** This request for proposal (RFP) is to contract for legal services to be provided to the **National School Boards Association.**
- B. **Persons/Entities Who May Respond.** Attorneys currently licensed to practice law in **Virginia** with admission to federal bar (additional admission to bars of **Maryland** and **District of Columbia** preferred) or law firms including such attorneys may respond to this proposal.
- C. **Instructions on Proposal Submission.**
1. **Submission Closing Date.** Proposals must be submitted no later than **5:00 pm (Eastern)** on **November 16, 2020.**

2. **Inquiries.** Inquiries concerning this RFP should be mailed to:

Francisco M. Negron, Jr.
Chief Legal Officer
National School Boards Association
1680 Duke St. Drive, FL2
Alexandria, VA 22314

Or e-mailed to: ljohnson@nsba.org

3. **Conditions of Proposal.** All costs incurred in the preparation of a proposal responding

to this RFP will be the responsibility of the Proposer and will not be reimbursed by the National School Boards Association (hereinafter referred to as NSBA).

4. **Instructions to Prospective Contractors.** Your proposal should be addressed as follows:

Francisco M. Negrón, Jr.
Chief Legal Officer
National School Boards Association
1680 Duke St., FL2
Alexandria, VA 22314-3493

It is important that the proposal be submitted in a sealed envelope clearly marked in the lower left-hand corner with the following information:

Request for Proposal
5:00 p.m., November 16, 2020
SEALED PROPOSAL For Legal Services

Failure to do so may result in premature disclosure of your proposal, which may not be considered by NSBA. It is the responsibility of the Proposer to ensure that the proposal is received by NSBA by the date and time, and in the manner specified above. Late and/or unsealed proposals will not be considered.

5. **Right to Reject.** NSBA reserves the right to reject any and all proposals received in response to this RFP. A contract for the accepted proposal will be drafted based upon the factors described in this RFP.
6. **Notification of Award.** It is expected that a decision selecting the successful proposal will be made within four (4) weeks of the closing date. Upon conclusion of final negotiations regarding the successful proposal, all other Proposers will be informed, in writing, of the name of the successful Proposer. It is expected that the contract shall be a one-year contract, renewable for subsequent years if agreed upon by the parties.

Description of Entity. NSBA is a nonprofit educational organization operating as a federation of state school board associations across the United States. Founded in 1940, NSBA represents its member state school board associations and their more than 90,000 local school board members. It believes that education is a civil right, and that public education is America's most vital institution.

Additional information on NSBA is available at <http://www.nsba.org>.

- II. **SCOPE OF SERVICES.** The Proposer shall be readily available to perform the following legal services, as requested by the Executive Director, Board of Directors, or Chief Legal Counsel:

- A. Advise on legal matters related to association and tax-exempt organization status.
- B. Advise on individual labor and employment matters.
- C. Advise on responses to subpoenas, court orders, and requests for information from third parties.
- D. Defend lawsuits, administrative claims, or other legal claims.
- E. Conduct litigation, as necessary.
- F. Other duties as assigned by the Board of Directors, Executive Director, or Chief Legal Officer.

Although it is preferable for an attorney or firm to submit a proposal covering all the above areas, NSBA will consider proposals emphasizing expertise in subsets of these areas.

III. PROPOSAL CONTENTS. The Proposer, in its proposal, shall, as a minimum, include the following:

- A. **Legal Experience.** The Proposer should provide a two-paragraph summary describing experience related to the areas outlined in the scope of services above and why it believes it is right for NSBA. NSBA is particularly interested in the following topic areas: nonprofit and tax-exempt organizations, bond financing; anti-trust; government grants and contracts; general business operations; employment law; litigation; and association law. A proven track record advising a diverse non-profit board, including training on board governance, fiduciary and regulatory obligations of directors, is required.
- B. **Legal Strategy.** The Proposer should be able to describe its strategy for handling specific types of legal matters and its general philosophy for handling such matters. The Proposer should be prepared to provide examples of creative ways in which it handled similar situations.
- C. **Commitment to Public Schools.** NSBA is committed to equity and excellence in public education. Attorneys and law firms representing NSBA should be able to demonstrate a similar long-standing commitment. The Proposer (both attorney and law firm) must show that it does not support values antithetical to public education, including but not limited to support for vouchers and other privatization schemes aimed at diminishing the ability of public schools to educate all children. Similarly, the Proposer must show that it is not currently engaged in, nor does it have a historic practice of representing parties litigating against public school districts and school boards, or against state school boards associations.
- D. **Success Rate.** The Proposer should be able to provide NSBA with information indicating its success rate in handling litigation.
- E. **Project Management Strategy.** The Proposer must be prepared to describe how it handles legal projects, how often it provides updates to the client, how it tracks important dates, how it manages documents and discovery, and how it manages budgets and estimates.
- F. **Staffing Strategy.** The Proposer must describe how it determines which attorneys it will assign to specific client matters, whether it will use contract attorneys, and at what point it informs the client that it may need to add additional staff to a project.
- G. **Customer Service.** How the attorney or law firm treats client representatives is very important to NSBA. The Proposer must describe who will be the firm's primary contact, how accessible the firm is, what the process is for changing the firm's primary contact person, and any other lawyer that has been assigned to the client if client is dissatisfied. The Proposer should identify the average response times for both critical and routine inquiries from NSBA and detail any factors that may serve as an exception to said response times. In addition, the Proposer should describe its data

security standards, how it will keep client communications and information safe and confidential, and how it handles potential conflicts.

- H. **Diversity.** NSBA considers diversity to be key in determining who will handle its legal business. The Proposer must describe the diversity of its legal staff. This description should include, but not be limited to, a how many employees/members of the firm are people of color, women, or members of the LGBTQIA community.
- I. **Cost/Rate.** NSBA considers cost to be one vital component of its decision to retain an outside attorney or firm. The Proposer should describe its fee structure, clarifying its use of flat fee, billable hour, retainer, or a combination of billing methods. It should expect to provide NSBA its hourly rate for all attorneys or support staff that will be handling client matters. It should also advise how it will charge for expenses such as copies, legal research, travel, and what kinds of discounts it may provide to clients. Finally, the Proposer should be able to tell the NSBA how it handles fee disputes. NSBA reserves the right to negotiate with the Proposer on the details of the billable hour/fee structure.

- I. **Organization, Size, Structure, and Areas of Practice.** The Proposer should describe its organization's:

- size
- structure,
- areas of practice
- office location(s)
- small or minority-owned business status

Please include a copy of the organization's Equal Opportunity/Affirmative Action Policy, if available.

- J. **Attorney Qualifications.** The Proposer should attach separately a description of the qualifications of attorneys to be assigned to the representation. Descriptions should include:
1. Professional and education background of each attorney.
 2. Overall supervision to be exercised during the NSBA representation.
 3. Prior experience of the individual attorneys with respect to the required areas of expertise listed above. Include resumes only of attorneys likely to be assigned to the representation. Education, position in firm, years, and types of experience, and continuing professional education will be considered.

IV. PROPOSAL EVALUATION.

- A. **Submission of Proposals.** All proposals shall include one (1) original and three (3) copies.
- B. **Evaluation Procedure and Criteria.** NSBA's Executive Director and appropriate staff will review proposals and make recommendations to the Board of Directors for final approval. The Executive Director and/or Board of Directors may request a meeting with some qualified Proposers prior to final selection. Proposals will be reviewed in accordance with the following criteria:

1. Proposed approach to scope of work.
2. Level of experience of the individual(s) identified to work on NSBA matters.
3. The Proposer's experience with similar clients and legal matters.
4. Cost/Rate.
5. Interviews, if conducted.

C. **Required Format for Proposals.** All proposals must follow the required format. Failure to follow the required format may result in disqualification of a proposal:

1. Page Limit: 12, including cover page
2. Attorney Qualifications section should be attached and is not included in the page limit
3. Page Size: 8 ½ x 11; portrait
4. Font Size: 12
5. Font Type: Times New Roman
6. Double-spaced
7. Margins: 1" minimum on the top, bottom, and sides of all pages
8. All pages must be numbered; double-sided printing is acceptable.
9. Do not use material in proposals dependent on color distinctions, animated electronics, etc.
10. Do not place proposals in notebooks or binders. Metal clips may be used to bind pages.
11. Do not include attachments other than those requested or required by this RFP.

V. PROPOSAL TIMELINE.

During the period from your organization's receipt of this Request for Proposals until a contract is awarded, your organization shall not contact any employee of NSBA for additional information except in writing directed to Francisco Negron, Jr. at ljohnson@nsba.org.

VI. QUESTIONS.

Questions for the purpose of clarifying the RFP must be submitted **in writing by mail or email** and must be received no later than **5: 00 p.m. on November 16, 2020**. Questions must be mailed or emailed to Francisco M. Negron, Jr. at the addresses listed on page 1. Questions and responses will be posted as "Addenda to the NSBA RFP for Legal Services" on the NSBA website at <http://www.nsba.org> by 5:00 p.m. on **November 16, 2020**. Please note that submissions of questions in response to the proposal do not in any way enhance or guarantee the chances of receiving a contract through this proposal.

VII. GENERAL INFORMATION.

A. Contract Award

NSBA reserves the right to award the contract in a manner deemed to be in the best interests of NSBA.

B. Stability of Proposed Prices

Any price offerings from Proposers must be valid for a period of 30 days from the due date of the proposals.

C. Amendment or Cancellation of the RFP

NSBA reserves the right to cancel, amend, modify, or otherwise change this RFP at any time if it deems it to be in the best interests of NSBA.

D. Proposal Modifications

No additions or changes to any proposal will be allowed after the proposal due date unless such modification is specifically requested by NSBA. NSBA, at its option, may seek Proposer retraction and clarification of any discrepancy or contradiction found during its review of proposals.

E. Proposer Presentation of Supporting Evidence

Proposers must be prepared to provide any evidence of experience, performance, ability, and/or financial surety that NSBA deems necessary or appropriate to fully establish the performance capabilities represented in their proposals.

F. Proposer Demonstration of Proposed Services and/or Products

Proposers must be able to confirm their ability to provide all proposed services.

G. Erroneous Awards

NSBA reserves the right to correct inaccurate awards. This includes revoking the award of a contract to a Proposer and subsequently awarding the contract to a different Proposer. Such action shall not constitute a breach of contract on the part of NSBA because the contract with the initial Proposer will be deemed voided as if no contract were ever in place.

H. Ownership of Proposals

All proposals shall become the property of NSBA and will not be returned.

I. Ownership of Subsequent Products

Any product, whether acceptable or unacceptable, developed under a contract awarded as a result of this RFP shall be the sole property of NSBA unless otherwise stated in the contract.

J. Oral Agreement or Arrangements

Any alleged oral agreements or arrangements made by Proposers with NSBA will be disregarded in any proposal evaluation or associated award.

K. Not a Contract

This RFP is not a contract and, alone, shall not be interpreted as such. Rather, this RFP serves only as the instrument through which proposals are solicited. NSBA will pursue negotiations with the highest scoring proposal. If, for some reason, NSBA and the initial Proposer fail to reach consensus on the issues relative to a contract, then NSBA may commence contract negotiations

with other Proposers. NSBA may decide at any time to start the RFP process again. The selected Proposer will be required to sign a formal contract.

L. Subcontractors

NSBA must approve any and all subcontractors utilized by the successful Proposer prior to any such subcontractor commencing any work. Proposers acknowledge by the act of submitting a proposal that any work provided under the contract is work conducted on behalf of NSBA and that the NSBA Executive Director or designee may communicate directly with any subcontractor as NSBA deems necessary or appropriate. It is also understood that the successful Proposer shall be responsible for all payment of fees charged by the subcontractor(s). A performance evaluation of any subcontractor shall be provided promptly by the successful Proposer to NSBA upon request. The successful Proposer must provide the majority of services described in the specifications.