

DEPARTMENT OF STATE TREASURER
January 11, 2010
List of Firms who filed Expressions of Interest

Abbey Spanier Rodd & Abrams, LLP
Barron & Budd, P.C.
Barrack, Rodos & Bacine
Barroway Topaz Kessler Meltzer & Check, LLP
Berger & Montague, P.C.
Berman DeValerio
Bernstein Liebhard LLP
Bernstein Litowitz Berger & Grossmann LLP
Blue Stephens & Fellers LLP
Brooks, Pierce, McLendon, Humphrey & Leonard, LLP
Chimicles & Tikellis LLP
Chitwood Harley Harnes LLP
Cohen Milsten Sellers & Toll, PLLC
Cotchett, Pitre & McCarthy
Coughlin Stoia Geller Rudman & Robbins LLP
Dilworth Paxson LLP
Ellis & Winter LLP
Entwistle & Cappucci LLP
Girard Gibbs LLP
Grant & Eisenhofer P.A.
Hagens Berman Sobol Shapiro LLP
Kaplan Fox & Kilsheimer LLP
Kilpatrick Stockton LLP
Kirby McInerney LLP
Labaton Sucharow LLP
Lieff, Cabraser, Heimann & Bernstein, LLP
Lovell Mitchell & Barth, LLP
Lowey Dannenberg Cohen & Hart, P.C.
Martin & Jones, PLLC
Milberg LLP
Motley Rice LLC
Murray, Frank, Sailer LLP
Nelson Mullins Riley & Scarborough, LLP
Nix Patterson & Roach LLP
Penry Riemann PLLC
Pomerantz Haudek Grossman & Gross LLP
Saxena White P.A.
Scott & Scott LLP
Smith Moore Leatherwood LLP

Spector Roseman Kodroff & Willis, P.C.
Susman Godfrey LLP
Wexler Wallace LLP
Wolf Popper LLP
Zimmerman Reed, PLLP
Zwerling, Schachter & Zwerling, LLP

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Questions & Answers for Request for Qualifications

The following responses were prepared by both the Department of State Treasurer and Attorney General's Office.

Question No. 1 [asked twice]: We write to inquire whether a joint proposal by two law firms working in collaboration to serve the North Carolina Department of State Treasurer is permitted for this RFQ?

Answer No. 1: Yes, a joint proposal is permitted.

Question No. 2: The RFQ limits response to 15 pages ("excluding required attachments and resumes of the proposer and individual attorneys"). Given the number of "securities class actions, commenced since January 1, 2001," in which our firm "has represented a party in the action or a party who sought lead plaintiff status," may we consider the lists of cases provided to VII (C)(1) and VII (C)(2) to be required attachments.

Answer No. 2: Given the limitations on the 15 pages response, securities class actions commenced since January 1, 2001 may be included as attachments.

Question No. 3: We write to seek clarification regarding the page limitation for response to the RFQ. The RFQ notes on page 5 that "[t]he response shall be a maximum of fifteen (15) pages (excluding required attachments and resumes of the proposers and individual attorneys)." We would appreciate guidance on whether the cover letter and fee schedule count towards the page limitation of if they are considered "attachments."

Answer No. 3: The cover letter and fee schedule do not count towards the page limit. They may be considered attachments.

Question No. 4: Our firm has found that it is generally helpful to the reader of a proposal to have the RFQ questions repeated in the proposal prior to each response. However, given the tight length constraints to which the Treasurer asks us to adhere, this will be difficult for us to do. The repetition of the RFQ questions adds approximately 2 pages to the total response. Would it be possible for our responses to number 17 pages in length to allow for the repetition of these questions?

Answer No. 4: We would prefer the responses to stay within the 15 pages limit. We believe that there may additional pages available for the RFQ responses given our response to on attachments for Questions No. 3, 6, and 11.

Question No. 5: In section VII(B)(3), the RFQ asks for "[a] list of all courts and jurisdictions in which the partners of the proposer to be assigned to this engagement are admitted to

practice.” Should the proposer list the partners by name, and then the courts and jurisdictions to which they are admitted? Or is it acceptable to simply list the courts and jurisdictions (without the names of the partners)?

Answer No. 5: The proposer should list the partners by name along with the courts and jurisdictions they are admitted.

Question No. 6: In section VII(C)(1), is it acceptable to provide a list of clients with total asset value as an attachment to the response to the RFQ?

Answer No. 6: The RFQ specifically states that that the proposer should “indicate the approximate asset value of each pension plan or other institutional investor client and briefly identify the issues on which the proposer worked.” (underline added)

Question No. 7: Should the response to VII(C)(1) identify all instances in which the firm represented a party who sought to serve as lead plaintiff in a PSLRA class action, but was not appointed by the court and had no further litigation?

Answer No. 7: Yes, the response should identify instances in which the plaintiff sought lead plaintiff status but was not appointed by such by the court.

Question No. 8: There appears to be an additional question between the questions marked C (1) and C (2) for Section VII asking for a list of all securities actions filed since 2001. Is this meant to be a part of question C (1) or is this a separate question that should be marked C(2) with subsequent questions adjusted accordingly?

Answer No. 8: Both sets of questions apply to section VII(C)(1). Section VII(C)(2) inquires about shareholder derivative actions.

Question No. 9: The above mentioned question requests a detailed listing of all filings since January 1, 2001. For many firms this will be quite a voluminous list. Would a five year period be acceptable with the understanding that some supplementation may be requested by your office?

Answer No. 9: This can be added as an attachment. We are seeking information from January 1, 2001.

Question No. 10: Section VII(C)(2) requests a list of all shareholder derivative actions that the proposer has filed. However, there is no date range given for how far back this list should go. Is five years acceptable?

Answer No. 10: For shareholder derivative actions, these should go back to January 1, 2001 also.

Question No. 11: In section VII(C)(3), is it acceptable to provide firm resumes for the attorneys and other staff as an attachment to the response to the RFQ?

Answer No. 11: It is permitted to attach resumes for the attorneys and staff as an attachment.

Question No. 12 [asked twice]: Regarding section VII(F)(2), please clarify the type of “audits” you expect to conduct during the course of the Implementation Contract and the types of documents, personnel, and other information” you expect to be necessary to conduct them.

Answer No. 12: This section contemplates financial audits or any other audits conducted by the State in relation to contracts entered into by the State. Documents could include, but are not limited to, billing records, contracts with experts, receipts and travel records. Personnel could include, but not limited to, attorneys working on behalf of the State pursuant to an Implementation Contract, financial services personnel, and outside auditors. Other information could include, but is not limited to, arrangements with other entities who engaged the proposer to do similar work being conducted for the State under an Implementation Contract.

Question No. 13: Section VII(F)(5) requires the proposer to disclose "any known or foreseeable conflicts of interest that would exist if your firm were selected as Securities Litigation Counsel." Under that section, if selected as securities counsel, the proposer also must certify that "it will not engage in the representation of any party who has asserted a claim, or has given notice of its intent to assert a claim, in any judicial proceeding against the State, or any agency, institution, subdivision, or officer named or to be named in his or her official capacity, without an express waiver of the conflict by the State." As written, this provision precludes counsel from representing any party who previously has asserted any claim against the State, any of its agencies, any county, or any county board for matters including, but not limited to, land condemnation, wrongful death, driver's license restoration, and employment. Does this provision require counsel to canvass current and prospective clients to determine whether they previously have asserted a claim against the State, any of its agencies, institutions, subdivisions, or officers? Additionally, can the Treasurer and/or Attorney General offer guidance as to the criteria for granting an express waiver of an actual or potential conflict?

Answer No. 13: Section VII(F)(5) has two components. First, as part of the proposal, the proposer must disclose “any known or foreseeable conflicts of interest that would exist if your firm were selected as Securities Litigation Counsel”. Second, should the proposer be selected for an engagement there will be a requirement that a statement be signed by the firm(s) engaged by the State that the firm is not now engaged and, for the duration of its service as counsel to the Treasurer, it will not engage in the representation of any party who has asserted a claim, or given notice of its intent to assert a claim, in any judicial proceeding against the State, or any agency, institution, subdivision, or officer named or to be named in his or her official capacity, without an express waiver of the conflict by the State. This section contemplates the firms’ work on behalf of clients and prospective clients. Express waivers will not unreasonably be withheld.