

# Regional Water Resource Agency

## REQUEST FOR QUALIFICATIONS FOR LEGAL SERVICES RFQ # 2025-20

### SECTION 1. INTRODUCTION

#### 1.1 Purpose

Regional Water Resource Agency (RWRA) is requesting qualification statements from individual attorneys or law firms willing to provide legal services to RWRA. Using this Request for Qualifications (“RFQ”), RWRA intends to establish an attorney who will be available to attend in person all Board of Director meetings and to provide legal services on an as-needed basis and case-by-case basis during the contract term. RWRA will select and contract with the individual and/or firm to handle general legal services involving issues and/or transactions in the following specialized practice areas:

- Labor/employment
- Real property/eminant domain
- Environmental/regulatory compliance
- Construction/land use
- Personal injury/property damage
- Municipal bonds
- Board governance

Individuals and/or law firms interested in assisting RWRA with the provision of legal services must prepare and submit a Statement of Qualifications in accordance with the procedure and schedule in this RFQ. RWRA will review Statement of Qualifications only from those individuals and/or firms that submit a Statement of Qualifications which includes all information required to be included as described herein.

#### 1.2 Overview of RWRA

The Regional Water Resource Agency (RWRA) is the comprehensive provider of public wastewater services for the Owensboro-Daviess County, Kentucky community. RWRA is responsible for all review, planning, and operation of the sanitary sewer service within the 201 Facilities Planning Boundary defined for Daviess County with the exception of Whitesville, KY. RWRA is also in charge of the Combined Sewer System (CSS) that is contained within the 201 Boundary and all associated Combined Sewer Overflow (CSO) requirements.

#### 1.3 Definitions

“RWRA” means Regional Water Resource Agency

“Counsel” means individual, or firm awarded this contract to provide legal service to RWRA

**“Respondent(s)”** refers to interested individual(s) and/or law firm(s) that submit a Statement of Qualifications.

**“RFQ”** refers to this Request for Qualifications, including any amendments, supplements or addendums thereto.

**“Statement of Qualifications” (“SOQ”)** refers to complete responses to this RFQ submitted by the Respondent(s).

**“Qualified Respondent”** refers to those Respondents who (in the sole judgment of RWRA) have satisfied the qualification criteria set forth in this RFQ.

## **SECTION 2. SCOPE OF SERVICES**

### **2.1 Areas of Specialized Services**

RWRA seeks Statement of Qualifications from Respondents that have expertise in or a working knowledge of the provision of specialized legal services described in Appendices A – G. For the legal service listed in Appendices A – G in which the Respondent only has a working knowledge of, ILO of having expertise in, the Respondent shall show they are capable of subcontracting legal counsel to assist Counsel in providing this service to RWRA. Respondents must be able to demonstrate that they currently have and will continue to have the capabilities to perform the requested services.

In the event the Respondent is an individual, the Respondent must specify who the designated substitute will be in the event the Respondent is not available to provide legal services for any time period.

In the event the Respondent is a firm, the Respondent must specify who the designated point of contact will be for the contract and must provide a CV for the Point of Contact.

Under the proposed agreement, Counsel will provide the following on a fixed hourly rate schedule: Provides legal advice, counsel, services and consultation to the Regional Water Resource Agency, on a wide variety of assignments, including but not limited to:

- a. Attend Monthly Board Meetings
- b. Prepare for and attend meetings with City of Owensboro Board of Commissioners, Daviess County Fiscal Court, and the RWRA Rate Review Board as needed
- c. Assessment projects related processing, lien filing, and releases for those assessments
- d. Claims for Assessment Fees during bankruptcy and foreclosure
- e. Easement preparation
- f. Bill of sale creation for property transfers or fee simple transfers
- g. Easement condemnations
- h. Statements of Finding/Opinions of Counsel for grants or state requirements
- i. Clear site certification
- j. Review external agreements and contracts
- k. General Litigation advice and representation
- l. Open Records requests advice
- m. Prepare Audit letters
- n. General questions for regulations and procedures

RWRA will not guarantee a set workload or number of billable hours. Work will be assigned on as-needed and case-by-case basis as determined to be in the best interest of RWRA. Successful Respondents are expected to and will have a close working relationship with RWRA Board and staff.

## 2.2 Term

RWRA seeks to award a single contract for all the practice areas listed in Appendices A – G, to commence or become effective on **March 1, 2025**, or as soon thereafter as contract may be awarded. Every two (2) years the Counsel will undergo a review of the services provided by the RWRA Board and select members of RWRA Staff. Upon a satisfactory review of services, the Counsel will be retained for legal services for the next two (2) year period.

## 2.3 Form of Contract

If selected to provide services, the successful Respondents shall be required to execute a form contract, which includes indemnification, insurance, termination and licensing provisions.

# SECTION 3. GENERAL INFORMATION

## 3.1 Due Date and Time

All qualifications must be submitted as described below to the location listed below no later than **2:00 pm local prevailing time on Tuesday, January 21, 2025**; at this time the name of each individual/ firm submitting qualifications will be announced. The RFQ will not be publicly opened at this time. Any qualifications received after the due date and time will be returned unopened.

## 3.2 General Compliance

Please read these instructions carefully.

**Qualifications Submission:** The signed, completed, original SOQ package and copies must be sealed in an envelope with the individual's/firm's name, the RFQ number (2025-20), and the due date clearly marked on the outside of the envelope. The RFQ shall be addressed and delivered to Regional Water Resource Agency, Attn: Tonya Smith, Purchasing and Administration Manager, David W. Hawes Wastewater Treatment Plant, 1722 Pleasant Valley Road, Owensboro, KY 42303.

**SOQ Copies:** When submitting SOQ, include the original signed qualifications, along with four (4) copies and a digital copy of the entire SOQ submitted. The original SOQ and all copies shall be submitted in one envelope.

**Conditions of Qualifications:** All costs incurred in the preparation of a SOQ responding to this RFQ will be the responsibility of the Offeror and **will not be reimbursed** by RWRA.

No contract will be awarded to any individual/firm who, in the opinion of RWRA, is not qualified to perform satisfactorily due to a reason including previous unfavorable performance, reputation or lack of experience, capital, organization, and/or personnel to conduct and complete the services in

accordance with the terms and conditions of the contract or who may have a conflict of interest in serving the RWRA Board.

**Acceptance Period:** All prices quoted in this SOQ must remain firm and open to acceptance by RWRA for a minimum period of one hundred twenty (120) days after RFQ due date.

**Disqualifications from Future Bids/RFQs:** Any individual/firm awarded a contract that fails to fulfill all obligations of contract may be disqualified from submitting a SOQ on any Regional Water Resource Agency projects for a period of up to five (5) years.

**Method of Award:** This SOQ will be evaluated based on the evaluation criteria established in this RFQ.

It is expected that written or oral discussions may be conducted with responsible Respondents that are being considered by RWRA for the award. Discussions shall not disclose any information derived from SOQ submitted by competing Respondents. An award without any discussions, based on initial SOQ, may be made as provided for in KRS 45A.370(3).

RWRA reserves the right to reject any and all qualifications received in response to this RFQ, and to waive any irregularities in said SOQ, and the RWRA also reserves the right to award a contract based on the best interest and/or most advantageous to RWRA.

**Requests for additional information or clarifications of this RFQ should be directed to Tonya Smith, Purchasing and Administration Manager, Telephone (270) 687-8440, or by email to [bids@rwra.org](mailto:bids@rwra.org).**

**Compliance with Applicable Laws/Regulations:** Successful individual/firm must comply with City of Owensboro/Daviess County ordinances relating to Occupational License Fees, Business Licenses, payroll and net profits taxes and any other ordinances which may apply to any RFQ package.

**Compliance with Equal Opportunity Statutes:** The Regional Water Resource Agency is an equal opportunity employer and does not discriminate on the basis of race, color, religion, sex, national origin, age, marital status, physical or mental disability, or any other characteristic protected by law. RWRA is also committed to employing only United States citizens and aliens who are authorized to work in the United States and complies with the Immigration Reform and Control Act of 1986.

Therefore, the successful individual/firm must demonstrate to the satisfaction of RWRA that he also conforms to all Federal, state, and local equal opportunity statutes. Further, the individual/firm will reimburse RWRA for any damages incurred due to any violation of the above-mentioned statutes by the individual/firm while under contract.

**Indemnity Agreement:** The successful individual/firm shall be required to sign and date the attached RWRA " INDEMNITY AGREEMENT" or their SOQ will not be considered. (Appendix J)

**Bonding:** There is no bid bond required.

**Compliance with KRS 45A.343 and KRS 45A.395:** Attached are statements which must be completed by offerors. These statements are required under the listed statutes, and must be completed and submitted with the proposal. (Appendix K & L)

### **3.3 Prohibition of Conflicts of Interest, Gratuities, Kickbacks and Use of Confidential Information**

Kentucky law prohibits conflicts of interest, gratuities, kickbacks and the use of confidential information with regard to any public contract or a solicitation or proposal, therefore. The prohibitions are set for in KRS 45A.455 which provides:

- (1) It shall be a breach of ethical standards for any employee with procurement authority to participate directly in any proceeding or application; request for ruling or other determination; claim or controversy; or other particular matter pertaining to any contract, or subcontract, and any solicitation or proposal therefor, in which to his knowledge:
  - (a) He, or any member of his immediate family has a financial interest therein; or
  - (b) A business or organization in which he or any member of his immediate family has a financial interest as an officer, director, trustee, partner, or employee, is a party; or
  - (c) Any other person, business, or organization with whom he or any member of his immediate family is negotiating or has an arrangement concerning prospective employment is a party. Direct or indirect participation shall include but not be limited to involvement through decision, approval, disapproval, recommendations, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity.
- (2) It shall be a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment, in connection with any decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling or other determination, claim or controversy, or other particular matter, pertaining to any contract or subcontract and any solicitation or proposal therefor.
- (3) It is a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.
- (4) The prohibition against conflicts of interest and gratuities and kickbacks shall be conspicuously set forth in every local public agency written contract and solicitation, therefore.
- (5) It shall be a breach of ethical standards for any public employee or former employee knowingly to use confidential information for his actual or anticipated personal gain, or the

actual or anticipated personal gain of another person (Enact. Acts 1978, ch.100, S 92, effective January 1, 1980; ch.250, S16, effective April 9, 1980)

For further information on the conflict-of-interest statutes, see the “Recovery of value of anything transferred or received in breach of ethical standards” at KRS 45A.460, and “Definitions for terms used in KRS 45A.445 to 45A.460” at KRS 45A.445.

**Non-Collusion Statement:** Individual(s)/firm(s), by submitting a statement of qualifications, certify that the accompanying bid or proposal is not the result of, or affected by, any unlawful act of collusion with any other person or company engaged in the same line of business or commerce, or any other fraudulent act punishable under Kentucky or United States law.

### **3.4 General Specifications**

The following provisions shall also apply:

1. Timeliness of response and accessibility to Counsel is an important aspect of this service. Accessibility includes the ability to be generally available to attend meetings in person on short notice and the ability to be reached promptly by telephone, cell phone or email.
2. Counsel must be available by phone, fax, cell phone, email and virtual meetings.
3. Service response is also of high importance. When RWRA request legal services, Counsel should provide some estimated time of completion and keep the requesting party apprised of any delays or special considerations.
4. Describe malpractice insurance coverage: carrier, limits and exemptions.
5. The service provider shall disclose possible conflicts of interest.
6. The service provider shall provide detailed itemized statements on a monthly basis for services rendered. It shall be the service provider’s responsibility to ensure that each itemized statement is accurate in its detail.

## **SECTION 4. SUBMISSION REQUIREMENTS**

### **4.1 Statement of Qualifications Format**

Each Statement of Qualifications should be prepared clearly and concisely. Respondents are cautioned against providing long narratives and extraneous materials not directly responsive to the information sought by this RFQ, Respondents are also cautioned against submitting marketing materials.

## 4.2 Statement of Qualification Content

Respondents must provide the following information in SOQs to be considered responsive. In addition, in order to expedite evaluation of submittals, the Respondent's information should be organized in the following sequence:

- A. Letter of Transmittal – maximum of two (2) pages to include:
  - Brief statement of Respondent's interest in and understanding of the scope of services.
  - A statement that Respondent's entire SOQ will be binding in all respects for a period of a minimum of one hundred twenty (120) days from submission; and
  - A statement indicating whether Respondent intends to subcontract any of the contracted services.
- B. Executive Summary – Respondent shall submit a brief overview of the Respondent's practice / firm and the proposed attorneys to be assigned to the RWRA contract.
- C. Respondent History – Respondent shall present information concerning the Respondent's /firm's financial stability and performance, operational history and a brief biography. This section of the Respondent's /firm's SOQ shall include information as to whether the firm has been in bankruptcy, reorganization, or receivership in the last five (5) years and the case name, citation, and court or other tribunal in which the matter was prosecuted.
- D. Identifying Information – Respondent shall provide the following identifying information:
  - Name, business address, business and facsimile telephone number, and email address of the proposed principal contact person; and,
  - Name and location of offices related to the Respondent's performance under this RFQ.
- E. Respondent Qualifications – Respondent shall include in this section all relevant information relating to the Respondent's /firm's organization and experience that would substantiate its qualifications and capabilities to perform the legal services requested under this RFQ. At a minimum, Respondent shall include:
  - A narrative description documenting the Respondent's and each attorney's experience in each of the practice areas described in Appendices A – G for which the Respondent and/or attorneys are seeking to be considered to provide services. The narrative should include experience in providing representation, advice, litigation services, etc., in each practice area, including experience advising municipal and government clients. Respondent should indicate the key issues of each relevant case, and the degree of success achieved; and
  - A summary of all other relevant knowledge, experience and training that demonstrates the ability of the key personnel to be assigned to represent RWRA in litigation and to provide advice. The summary may include significant litigation experience involving appellate courts, representation of other governmental entities,

non-litigation legal experience, academic experience, publications and professional activities; and

- A statement relating to existing clients and whether current representation presents a conflict of interest with potential representation of RWRA. Respondent must provide sufficient, non-confidential details for independent verification by RWRA. Respondent should also disclose any interests that may reasonably be foreseen to constitute a potential conflict of interest when representing RWRA and, if seeking a waiver, should detail the reasons the Respondent reasonably believes that associated attorneys will be able to provide competent and diligent representation to RWRA and Respondent's existing clients and the measures the Respondent will take to protect RWRA from prejudice, and/or adverse or detrimental consequences if the waiver is granted.

Consideration will be given to requests for waiver, however, RWRA shall be the sole decision-maker about whether a conflict exists between its interests and those of the Respondent's other clients or the Respondent.

- F. Client References – Respondent must provide no less than five (5) client references for similar services performed within the last three years and must include at least one (1) municipal or governmental entity client. In addition, the client reference list must include:

- Name and address of client
- Name, telephone number and email address of client contact
- Contract start date and duration
- Type and size of contract
- Role in representing client
- Number of staff by position participating in representation
- Outcome of representation, if completed and available for disclosure

Respondent must also include a statement authorizing RWRA to contact Respondent's references in conjunction with the evaluation of Respondent's Statement of Qualifications.

- G. Staffing Plan – Respondent shall submit information relating to its personnel, including attorneys, paralegals, and administrative and technical staff. Adequate resources must be guaranteed throughout the course of the representation and must also reflect RWRA's objectives related to cost efficiencies.

- H. Responsible Attorney – Respondent must specifically identify and provide a detailed resume of the attorney who will be responsible for management of representation of RWRA. Information should be included concerning the attorney's length of service with Respondent and all relevant qualifications. The identified individual will be expected to remain with Respondent and be responsible for the management of representation during the contract term.

- I. Pricing – RWRA prefers that all legal services be provided on a pricing model of "per hour charges" (to the tenth of an hour). Respondent may be asked at a later date to submit a schedule of hourly rates to be charged for each individual named in the Statement of Qualifications. The schedule of rates shall also include all fees, charges, and expenses to be billed by each attorney and staff member.



- J. Litigation Management – At the outset of each engagement involving litigation, the attorney to be assigned to RWRA contract will be expected to discuss with RWRA’s Board Members, RWRA’s goals and objectives, and possible strategies for achieving the goals and objectives. To assist the RWRA Board Members in monitoring legal expenses and to facilitate communication concerning the identification and achievement of the objectives of an engagement, the attorney will also be expected to submit a litigation management plan and budget for each new matter.

To demonstrate the requisite experience in preparing such a plan and budget, Respondent shall provide a copy of an existing litigation management plan prepared for a matter identified under subsection 4.2.E above, or a writing which demonstrates the ability of assigned attorneys to analyze the likely costs of litigating a matter within a practice area for which the attorney seeks to provide litigation services. The writing should include a discussion of the method by which the attorney would determine possible outcomes and the projected likelihood of each outcome; probable and ultimate verdict range; settlement value and recommendations; and /or proposed strategy and tactics for settlement, termination or resolution.

- K. File Retention – Respondent shall submit a copy of the firm’s file retention policies and/or practices or a written description of same.
- L. Forms and Questionnaires – In addition to the information requested in subsections 4.2 A through K above, all Respondents must also complete and submit the following forms and questionnaires attached to this RFQ:
- Respondent Questionnaire – Part A (Appendix H)
  - Respondent Questionnaire – Part B (Appendix I)

Forms and/or questionnaires that do not apply should be clearly marked “Not Applicable.”

## **SECTION 5. EVALUATION OF RESPONDENTS**

### **5.1 Evaluation Process**

RWRA will have a selection committee to evaluate the qualifications and will determine rankings based on materials submitted. Interviews of the top-ranking firms may be conducted during the selection process.

### **5.2 Evaluation Criteria**

The Committee will review Statements of Qualifications to determine if the Respondent has satisfied the criteria described in this RFQ. The following criteria will be considered in selecting the successful Respondents:

- Experience, qualifications, and demonstrated competence of attorneys seeking to be qualified to provide legal services described in Appendices A – G.
- Respondent organization, financial stability, staffing (attorneys and support staff).
- Client references / Respondent reputation.
- Litigation Management Plan.
- File Retention Schedule; and
- Other criteria and factors determined by the reviewing Committee to be in the best interest of RWRA.

Respondent (attorneys) will be deemed non-responsive and rejected without any further evaluation if they do not meet the following minimum qualifications/requirements:

- A valid Juris Doctorate degree from an American Bar Association accredited college or university and an active license in good standing with the Kentucky Bar Association.
- Acceptance of RWRA Terms and Conditions
- A minimum of five (5) years’ experience in the practice area (set forth in Appendices A – G) in which the Respondent is seeking to be considered for provision of services.
- Conflicts of Interest for which a waiver has not been requested

### **5.3 Shortlist Option**

Following receipt of Statements of Qualification, the Evaluation Committee will endeavor to expedite the thorough review and evaluation of all submittals as may be deemed appropriate and in the best interests of RWRA. The Committee will then review submittal content and select Respondents for further review and evaluation.

### **5.4 Respondent Interviews / Designation**

The Respondents selected for further evaluation may be interviewed by the reviewing Committee, and the reviewing Committee may also, at its discretion, undertake additional evaluations.

### **5.5 Evaluation Scoring**

Qualifications shall be evaluated based on the following criteria:

- |   |      |
|---|------|
| 1. Individual/Firm(s) understanding of RWRA’s approach to the RFQ as demonstrated in the description and scope of work. | 0-10 |
| 2. Individual/Firm(s) Qualifications and Experience   | 0-30 |
| 3. Professional Staff to be assigned  | 0-15 |
| 4. Geographic Location and Accessibility  | 0-10 |

5.	Response of reference, and responsiveness and clarity of proposal related to information requested. Board Members may individually contact any references listed in the proposals	0-10
6.	Respondents' expertise and experience in working with Joint Sewer Agencies or other utilities	0-15
7.	Evidence of respondent's expertise and experience with county and local governments	0-10
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	TOTAL POINTS POSSIBLE	100