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**REQUEST FOR QUALIFICATIONS TO PROVIDE SECURITIES PORTFOLIO  
MONITORING AND LITIGATION SERVICES**

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Issued October 30, 2015

Proposals due by 5:00 PM, November 20, 2015

Address to:

Jeffrey Padwa  
Chief of Staff / General Counsel  
Office of the General Treasurer  
Rhode Island State House, Room No. 102  
Providence, Rhode Island 02903-1121  
Jpadwa@treasury.ri.gov

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## **I. INTRODUCTION AND GENERAL INFORMATION**

The Rhode Island Office of the General Treasurer (“Treasurer”) on behalf of the State Investment Commission (hereafter the “SIC” or the “Commission”) and the Employees Retirement System of Rhode Island (“ERSRI”) is requesting that law firms provide proposals for monitoring the investment portfolios of the various pension plans under the ERSRI and SIC’s jurisdiction and litigating claims when appropriate.

To ensure that securities litigation actions continue to be adequately identified, evaluated and pursued, the Treasurer seeks to retain one or more law firms with significant experience and expertise.

The Treasurer reserves the right to reject any and all proposals, with or without cause, and to accept the qualifications it considers most favorable. In addition, the Treasurer reserves the right to negotiate the terms of any proposed engagement.

The Treasurer is not liable for any costs incurred in replying to this Request for Qualifications (“RFQ”). The Treasurer will retain all proposals and related materials. All documents submitted in association with this RFQ are available to the public in accordance with State law.

### **BACKGROUND INFORMATION**

The SIC, created by the Rhode Island General Assembly in 1958, manages a diversified investment portfolio with a net position of approximately \$8 billion for the exclusive benefit of participating plans in the ERSRI. These plans include those for state employees, teachers, employees of participating municipalities, state police, and judges. ERSRI is a separate and distinct entity responsible for the administration and management of these plans in order to provide their members with retirement, disability, and survivor benefits.

The nine-member SIC is responsible for the investment of the funds within the SIC’s jurisdiction. The current composition of the SIC can be found in Rhode Island General Laws § 35-10-1. The Rhode Island General Treasurer serves as chairperson of the SIC. The day-to-day administration of the SIC is carried out by the Office of the General Treasurer.

## **II. PURPOSE OF RFQ**

The Treasurer is seeking law firms to provide securities monitoring and litigation services for the state pension fund portfolios. Potential law firms are encouraged to demonstrate their experience, capacity and resources for monitoring public pension investments, investigating potential matters and conducting securities litigation when appropriate.

### **ISSUING OFFICER, CONTACTS AND LOBBYING**

The Treasurer is issuing this RFQ on behalf of the ISC and ERSRI. The Issuing Officer identified below is the sole point of contact regarding this RFQ. No contacts with any other employee of the Office of the General Treasurer, of members of the SIC board, and/or members of the ERSRI Board are permitted with respect to this RFQ, any proposals submitted in response to the RFQ, or the contract to be awarded pursuant to this RFQ. This prohibition applies from the date of release of this RFQ until the date a contract is executed, unless otherwise requested by the Issuing Officer. This prohibition includes, but is not limited to, any lobbying efforts directed at state legislators or any state officer or employee who might reasonably be considered to have influence over the process and final outcome.

The Issuing Officer for this RFQ is:

Jeffrey Padwa  
Chief of Staff / General Counsel  
Rhode Island Office of the General Treasurer  
Rhode Island Statehouse  
82 Smith Street, Suite 102  
Providence, RI 02903  
(401) 222-4780  
Jpadwa@treasury.ri.gov

Transmittal letters for any proposal submitted in response to this RFQ should designate one person employed by the party responding to this RFQ (“Respondent”), who is authorized to contact the Issuing Officer on behalf of the Respondent. Unless otherwise requested by the Issuing Officer, from the date of issuance of this RFQ until the date a contract is executed, only such authorized contact person should contact the Issuing Officer with respect to this RFQ, any proposal submitted in response to the RFQ or the contract to be awarded under the RFQ on behalf of the Respondent. Without limiting the foregoing one-contact provision, persons who are not employees of the Respondent shall not contact the Issuing Officer on behalf of the Respondent with respect to this RFQ, any proposal submitted in response to the RFQ or the contract to be awarded under this RFQ unless requested to do so by the Issuing Officer.

Violations of this one-contact provision may result in immediate disqualification from this and any other future business opportunity with the Treasurer, the SIC and/or the ERSRI.

## **PERIOD OF CONTRACT**

The term of this contract shall be for a period of five (5) years with one or more options to extend for no more than five (5) additional years to be determined during contract negotiations.

## **III. SCOPE OF SERVICES**

### **1. MONITORING AND EVALUATION**

The Respondent(s) selected by the Treasurer will be responsible for, among other things, obtaining trading information from the custodian bank, monitoring the various pension fund portfolios, identifying and evaluating violations of securities laws and other potential legal actions in which the SIC and/or ERSRI have an interest, and notifying the Treasurer of those actions that the Respondent believes merit further consideration. Upon such notification, the Respondent will work with the Treasurer's Office to determine whether losses have been sustained during the relevant time period, and evaluate whether the matter has merit and is worthy of further investigation, litigation and/or other action. The selected Respondent(s) will also be required to provide periodic reports, including their monitoring activities, investigations and/or pending litigation.

### **2. INVESTIGATIONS AND RECOMMENDATIONS**

Should further investigation and/or analysis of matters be requested, the Respondent shall report its findings and recommendations. Respondent(s)'s recommendations may include:

- i. Actively monitoring matters;
- ii. Advising with regard to the appropriate form of action to be filed in foreign or domestic courts;
- iii. Filing actions;
- iv. Seeking appropriate plaintiff status;
- v. As a plaintiff or member of any action, reviewing and commenting on motions prepared by foreign or other counsel and participating in settlement discussions when permitted by the parties or the court;
- vi. Withdrawing from actions and bringing independent actions, when appropriate; and/or
- vii. Coordinating activities with the custodian bank, or investment managers.

### **3. LEGAL FEES AND COSTS**

No compensation or retainer shall be paid to any Respondent law firm selected in response to this RFQ unless Respondent law firm is engaged to take formal legal action. If a Respondent law firm is engaged to take formal legal action, such representation will be on a contingency fee basis with law firm agreeing to advance

all expenses incurred in the litigation. All fees, costs and expenses incurred in any such litigation will be paid solely from recoveries, if any, achieved in the litigation in which the Respondent law firm represents the ERSRI, individually, or as a class representative. Such representation will be in accordance with a contingent fee agreement, subject to negotiation that may be necessary by the parties.

#### **IV. SUBMISSION OF PROPOSALS**

##### **1. CLOSING DATE AND PLACE TO SUBMIT PROPOSALS**

Respondents should submit two (2) electronic copies: (1) in PDF format and (1) MS Word format to the online portal at <http://www.treasury.ri.gov/rfp-calendar/rfps> no later than 4:00 P.M. Eastern on November 20, 2015. Proposals received after the deadline will not be considered. Telephoned or faxed submissions will not be considered. If you have any IT issues please contact Chris Cate at 401-462-7659.

##### **2. SUBMISSION OF WRITTEN QUESTIONS**

If Respondents have any questions, they should submit their questions using the online portal at <http://www.treasury.ri.gov/rfp-calendar/rfps> no later than 4:00 P.M. Eastern on November 6, 2015. All questions will be aggregated and posted publically on the RFQ section of [www.treasury.ri.gov](http://www.treasury.ri.gov). Treasury staff will not answer questions verbally or individually during the RFQ process.

#### **V. CONTENT OF PROPOSAL**

##### **1. COVER LETTER**

The proposal must be accompanied by a cover letter, which is considered an integral part of the proposal package, dated and signed by the individual or individuals authorized to contractually bind the Respondent. The cover letter must indicate that the signer is so authorized, and must indicate the title or position the signer holds in the Respondent firm. An unsigned proposal will be rejected.

The letter must also contain a statement from the managing partner or chief executive officer of the firm certifying that (i) no member of the proposing firm made inquiries with respect to this RFQ other than in written communication as outlined in this RFQ from the date of this RFQ through the date of its proposal and (ii) that all information in the Respondent's proposal is true and correct.

##### **2. FIRM SPECIFIC INFORMATION**

- i. Provide a statement setting forth the name of a contact person with accompanying business, fax, and cellular numbers, where available, to allow for follow-up contacts.
- ii. Provide a brief history of your firm, including the year the firm began providing securities litigation services. Give specific details with regard to the nature of services provided, with special attention to public sector experience and specific experience with securities litigation.

- iii. Identify and describe the qualifications and experience of attorneys and professional personnel who would be assigned to provide the services requested by this RFQ as well as the current and planned role each individual would play, relative to such assignments. Provide a short biography of such attorneys including their title, function, number of years with your firm, years of experience, and educational background. Identify the individual that would be the lead attorney in connection with the services referenced in this RFQ.
- iv. Provide a summary of your firm's general qualifications to provide the services contemplated herein, including additional firm personnel and resources beyond the attorneys who would be assigned to these services.
  - 1. Indicate whether your firm has dedicated in-house staff to handle portfolio monitoring.
  - 2. Indicate whether your firm has dedicated in-house staff to investigate securities litigation cases.
- v. Summarize other relevant experience and training that demonstrate your firm's ability to advise or represent the ERSRI in all or any number of the areas or issues listed herein. This may include significant litigation experience, particularly involving pre-trial practice, trial practice, and appellate practice, representation of government agencies, academic experience, professional activities as well as non-litigation legal experience.
  - 1. List all securities litigation cases in which your firm has participated in the past 5 years and in which there was a significant settlement or judgment, stating the amount of the significant settlement or judgment, and describing your firm's role in any such cases.
  - 2. Indicate whether your firm has brought securities class action cases to trial in the past 3 years. If so, describe the outcome of any such cases, including whether they were tried before a jury.
  - 3. Provide copies of or links to recent legal articles, or publications by attorneys at your firm that demonstrate your firm's experience, or subject matter expertise.
- vi. Provide a list of your firm's other public pension fund clients.
- vii. Provide a list of references, including the names of person to contact along with their email, and telephone number.
- viii. Provide a certificate of insurance coverage reflecting professional liability insurance equal to or greater than \$1 million.
- ix. Identify any actual, potential, or apparent conflict of interest that may arise as a result of your firm's selection to represent the ERSRI.
- x. Provide a statement explaining whether your firm or its members have had any adverse professional negligence or professional discipline actions prosecuted against them within the five (5) years immediately preceding the submission of this proposal.

3. **SECURITIES PORTFOLIO MONITORING AND REPORTING**

- i. Describe how your firm intends to monitor and evaluate the pension fund securities portfolio for potential claims. Indicate whether your firm’s monitoring and/or evaluation services are to be provided directly by your firm or if any part of the process is to be provided through third parties, and if third parties may be used, kindly identify the third parties, and describe the activities to be provided by the third parties.
- ii. Describe the reporting process that you would use regarding the monitoring and evaluation of the pension fund securities portfolio.
- iii. Describe the reporting process that your firm would use when the ERSRI participates in litigation as lead plaintiff in a class action or as a passive member of the plaintiff class.
- iv. Describe any online services that your firm provides. Please detail these services including: online monitoring services, webinars, and any client extranet. Where such systems can be reviewed online, please provide information on how such systems can be viewed.
- v. Describe the scope and terms of any settlement auditing service that your firm offers to ensure that claims are being filed correctly on behalf of your clients.

4. **LITIGATION SERVICES**

- i. Provide a detailed explanation of the securities litigation services your firm would provide to the ERSRI.
- ii. Provide a representative listing of securities litigation matters in which your firm has achieved favorable outcome in the past three (3) years. Include a brief description of the work that was performed on behalf of your client. Identify key issues of the case(s).
- iii. Describe the methodology your firm would use to determine your legal fees in class action awards or settlements where the ERSRI serves as lead plaintiff.
- iv. Describe any strategies your firm would use to control legal fees and/or costs.

**VI. EVALUATION AND SELECTION PROCESS**

The primary objective of the evaluation process will be to secure compatible, highly skilled, diligent, responsive, professional, and experienced attorneys and personnel who will provide quality legal services at a competitive rate. The evaluation process will be structured to select firms that clearly demonstrate: (a) a thorough understanding of the scope of the engagement and the specific contract responsibilities; (b) a sufficient degree of legal experience to monitor and litigate securities cases on behalf of the state’s public pension fund; (c) the capacity to monitor and litigate cases on behalf of the state’s public pension fund (d) an effective work plan that covers the proposed services; (c) adequate resources to handle both the anticipated assignments and any extenuating circumstances

that may arise during the contract period; (d) an untainted reputation for providing quality legal services; and (e) competitiveness in terms of billing rates and other related charges.

During the evaluation process, the firm's personnel that would be assigned to this proposed engagement may be asked to provide written clarification of any part of the proposal. The Treasurer reserves the right to negotiate additions, deletions, or modifications to the terms of the proposed engagement, including the fees proposed by the responding firm. A recommendation for awarding a contract to a responding firm will be contingent on the Treasurer's ability to obtain satisfactory business terms. If a contract is awarded, the award will be made to the firm(s) whose proposal conforms to the conditions and requirements of this Request for Qualifications and whose proposal is, in the judgment of the Treasurer, the most beneficial to the SIC and/or ERSRI.

The Treasurer reserves the right to accept or reject any or all proposals submitted, or any part thereof, to waive or not waive any immaterial technicality or irregularity, deviation, or defect in a proposal, or to cancel or withdraw this Request for Qualifications at any time, whenever it would be in the best interest of the SIC and/or ERSRI to do so. The Treasurer's waiver of an immaterial deviation or defect shall in no way modify the Request for Qualifications or excuse the proposer from full compliance with the requirements of the Request for Qualifications. The lowest priced proposal may not necessarily be the chosen proposal. Issuance of this Request for Qualifications, or a Respondent's preparation and submittal of a proposal, or subsequent participation in presentations or contract negotiations, creates no obligation on the General Treasurer to award a contract or to pay any costs incurred in the preparation of, or associated in any way with a proposal.

Proposals that contain false or misleading statements or that provide references that do not support an attribute or condition claimed by a Respondent may be rejected.

## SCHEDULE

RFQ Issued	October 30, 2015
Deadline for Respondents to submit questions	November 6, 2015
Responses to questions	November 13, 2015
<b>RFQ Responses due</b>	<b>November 20, 2015</b>
Evaluations/interviews	November, 2015
Law Firm selection	November - December 2015

## EVALUATION OF RESPONSES

Securities Monitoring Law Firm(s) will be selected based upon an assessment of the Respondents' proposal and ability to provide the services as described herein. The selection process will consider the relevant experience of the Respondents, the strength of the proposal, the demonstrated ability and willingness of the Respondent to structure the best possible delivery of services, the Respondents' resources and capacity to prosecute class actions cases, and the cost of the proposed services.

During the evaluation process the Treasurer reserves the right to request additional information or clarification from those submitting responses. Respondents may be asked to participate in a telephone interview, an in-person interview in Rhode Island or an on-site visit at the Respondent's place of business.

The RFQ does not commit the Treasurer to make any selection or to pay any costs incurred in the preparation of the responses or attendance at interviews and the Treasurer in its sole discretion reserves the right to accept or reject any or all responses received as a result of this RFQ, to waive any nonconformity with the provisions hereof, to negotiate with any qualified source, or to cancel this RFQ, in part or in its entirety. All proposals shall become the property of the Treasurer and shall be subject to public records request under Rhode Island General Laws § 38-2-1 et seq. (Rhode Island Access to Public Records Act, hereinafter "APRA").

### **Evaluation Criteria**

The criteria for evaluation and weight assigned to each are summarized below.

- A. Experience and expertise of the law firm in monitoring and evaluating cases – **30 points**;
- B. Experience and expertise of the law firm in representing lead plaintiffs in U.S. shareholder litigation – **30 points**;
- C. Experience and expertise of the law firm in assisting with non-U.S. litigation matters – **15 points**;
- D. Resources of the firm – **20 points**; and
- E. Fee structure – **5 points**.

### **Other Considerations and Restrictions**

#### *Non-Discrimination*

All proposals shall be considered on the basis of their merit in accordance with the criteria specified herein and shall not exclude any person, firm, or other entity, from consideration on the grounds of sex, race, color, or national origin. Likewise, it is required that all Respondents have established non-discrimination policies, including policies, which prohibit discrimination in the selection of subcontractors. Respondents shall represent and warrant in their responses to this RFQ that they do not discriminate on the basis of sex, race, color, or national origin, including but not limited to their selection of subcontractors.

#### *State Code of Ethics*

The State of Rhode Island and Treasurer are committed to maintaining the highest standards of ethics in the awarding of contracts. In accordance therewith, all Respondent's should be familiar with and abide by the State Code of Ethics, as set forth in Rhode Island General Laws §36-14-1 *et. seq.*, and any additional regulations as provided on the State Ethics Commission website <http://www.ethics.ri.gov/code/>.

### *Confidentiality Requirements*

The staff members that are assigned by the successful Respondent to this Program – be they employees of the Respondent, sub-contractors to the Respondent, or employees of sub-contractors – may be required to sign a non-disclosure statement.

The Treasurer shall treat all documents submitted by a Respondent in connection with this RFQ as public records after awarding the contract pursuant to this RFQ, unless the Respondent properly requests that documents submitted by it be treated as non-public at the time of submission. The release of public records is governed by Rhode Island General Laws §38-2-1 et seq. (“APRA”). Respondents are encouraged to familiarize themselves with this law before submitting a proposal.

Any request by Respondents that records submitted by them be exempt from being considered public record must be included in the transmittal letter with the Respondents’ proposal. In addition, Respondents must enumerate the specific grounds upon which the APRA or other applicable law supports treatment of the documents as exempt from being considered a public record, and further, the factual basis, if any, upon which they rely in asserting that the documents should be exempt. Any request for treating records submitted as being exempt must also include: the name, address, and telephone number of the person authorized by the Respondent to respond to any inquiries by the Treasurer with regard to such an assertion.

Any proposals submitted which contain non-public records must be conspicuously marked on the outside as containing non-public information, and each page upon which non-public information appears must be conspicuously marked as containing non-public information. Identification of the entire proposal as being non-public records may be deemed non-responsive and may disqualify the Respondent.

If the Respondent designates any portion of the proposal as being a non-public record, the Respondent must submit one (1) copy of the proposal from which the non-public record is deleted or redacted. This copy shall be submitted in addition to the number of copies requested in Section IV of this RFP. The non-public records must be excised in such a way as to allow the public to determine the general nature of the information redacted and retain as much of the proposal as possible.

The Treasurer will treat the records marked as non-public as being confidential information to the extent such information is determined confidential under the APRA or other applicable law or by a court of competent jurisdiction. The Respondent’s failure to request records submitted as being non-public records will be deemed as a waiver of any right to confidentiality, which the Respondent may have had.

By submitting a proposal, Respondent agrees that the Treasurer may reproduce Respondent’s proposal for purposes of facilitating the evaluation of the proposal or to respond to requests for public records. Respondent consents to such reproduction by submitting a proposal and further warrants that such reproduction does not violate its rights or the rights of any third parties. The Treasurer shall have the right to use ideas or adaptations of ideas that are presented in proposals.