Litigation Matters

Request for Proposal

# Note to Users

Use this template as a starting point when your Company or one of its subsidiaries is a plaintiff or defendant in a litigation matter.

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# Stage 1: Conflict Check

**Note to User:**

The first step to take is to ask each of the firms that you are seeking to invite to your RFP to clear conflicts before receiving your RFP. This is to ensure that firms do not see any confidential material that may form part of your RFP before clearing conflicts. Your company may have a standard procedure for asking firms to clear conflicts. Your communication will likely need to cover the following. If it is clear that no conflict clearance is required for your matter, simply proceed to Stage 2.

**Subject Line: [COMPANY NAME] Requesting a Conflict Clearance for a Litigation Matter**

[***Company name***] is considering inviting your firm to an RFP to act on its behalf in a litigation matter. Before providing your firm with the RFP, we require your firm to clear conflicts.

## Legal Entity requesting Conflict Check

[***Company name or other legal entity within your company group that is seeking legal representation***]

## Counterparty Name

[***insert Counterparty/s names***]

**Note to User:**

For firms to consider the following when clearing conflicts, t*his is your opportunity to provide firms with any additional information or instructions that you wish them to take into account when clearing conflicts and before they receive the full details of your RFP. By way of example only, you may wish to let the firms know that the matter is a litigation matter in which your Company requires representation. Depending also on your Company’s waiver of conflicts policy, you may wish to advise firms of the following: “Please ensure that you do not approach any counterparty seeking a waiver of conflict before clearing with [COMPANY NAME] first”*.

**[*Attach any documents you may with to provide law firms with in order to assist them with clearing conflicts*].**

We request that your firm clear conflicts by [***insert date***].

Your point of contact at [***Company name***] is [***insert contact name and contact details***].

You will be provided with further details in relation to this RFP once your firm has cleared conflicts.

[***You can then move to Stage 2 for all firms that have cleared conflicts***].

# Stage 2: Once Firms Have Cleared Conflicts

**Note to User:**

You can proceed to issue your RFP to all firms that have confirmed to your satisfaction that they have cleared conflicts. You may submit any questions you have regarding the RFP to the POC by the date specified in the RFP schedule. All such questions must be in writing/submitted to the POC via the designated email address. Company is not required to respond to any query submitted but, if Company does reply, may make your query as well as Company’s answer to it available to all bidders.

# RFP Overview

***RE: RFP from [COMPANY NAME] in relation to [HIGH LEVEL DESCRIPTION OF LITIGATION MATTER]***

***[Company name]*** is seeking proposals to act on its behalf in ***[Include a more detailed description of the litigation matter]***

The documents which make up the filings in this litigation and background briefing materials are attached. ***[Attach relevant filings and briefing materials].***

***[Company name]*** objective in this litigation is ***[clearly articulate your Company's objective in this litigation]***

You have been invited by ***[Company name]*** to submit a proposal in response to this RFP.

If you have any questions, please direct your questions to the following email ***[insert point of contact and contact details].*** *Any unauthorized contact with other members of our organization in relation to this RFP may disqualify you from the process.*

## Contractual terms

[***Company name***] reserves the right to accept or reject any and all proposals (whether received before or after the due date), to change or withdraw this RFP specification, to waive any formalities and/or discontinue this RFP process at any time.

This RFP is not, and should not be construed as, an agreement to purchase goods or services from any Firm. Please note that [***Company name***] will not be responsible for any costs associated with your preparation or submission of a reply to this RFP; indeed, you are solely responsible for all costs incurred in your preparation and presentation of a response.

[***Company name***] looks forward to receiving confirmation of your firm’s intention to participate in this RFP and, in due course, your firm’s proposal in response to this RFP.

# Pricing

**Note to User:**

Now you can ask any pricing information in the 'Pricing' section below. We have started you off with examples of hourly rate information you can ask for, fixed pricing for various phases and a total fee cap. You can choose, modify or delete any of those, and/or add your own. We have also started you off with example questions that you may wish to ask in the 'Questionnaire' section below. Again you can choose, modify or delete any of those, and/or add your own.

[***Company Name***] is looking for a [***insert Preferred Pricing Model***] engagement.

\*Choose your Preferred Pricing Model from the list below:

* None
* Fixed Feed
* Capped Fee
* Contingency Fee
* Success Fee
* Hourly Rates
* Estimate Only
* Other

## Pricing Breakdown

**Note to User:**

You can ask firms to complete the parts of the following table that is relevant to your RFP. Most importantly, consider how you can break the litigation matter into phases, and consider asking for a fixed price for each of those phases.

|  |  |  |  |
| --- | --- | --- | --- |
| **Item**  | **Preferred Pricing Model** | **Description** | **$USD** |
| Partner Rate | Hourly Rates | Please provide the hourly rate of the partner that will have the day to day conduct of this matter.  |  |
| Senior Associate Rate | Hourly Rates | Please provide the hourly rate of the senior associates working on this matter.  |  |
| Junior Associate Rate | Hourly Rates | Please provide the hourly rate of the junior associates working on this matter.  |  |
| Paralegal  | Hourly Rates | Please provide the hourly rate of any paralegals assigned to this matter.  |  |
| Fixed Fee for Early Case Assessment | Fixed Fee | Please provide us with a fixed price for an early case assessment, with % prospects of success on potential outcomes, within [6 weeks] of being appointed. |  |
| Motion to Dismiss | Fixed Fee | Please provide us with a fixed price to [DEFEND/PROSECUTE] a motion to dismiss the claim. |  |
| L100 Case Assessment, Development and Administration | Fixed Fee | Please provide your fixed fee for undertaking all work in this matter falling into the ABA's UTBMS category L100. |  |
| L200 Pre-Trial Pleadings and Motions | Fixed Fee | Please provide your fixed fee for undertaking all work in this matter falling into the ABA's UTBMS category L200. |  |
| L300 Discovery | Fixed Fee | Please provide your fixed fee for undertaking all work in this matter falling into the ABA's UTBMS category L300. |  |
| L400 Trial Preparation and Trial | Fixed Fee | Please provide your fixed fee for undertaking all work in this matter falling into the ABA's UTBMS category L400. |  |
| E100 Expenses  | Fixed Fee | Please provide your fixed fee for all anticipated expenses in this matter falling into the ABA's UTBMS category E100. |  |
| L500 Appeal | Fixed Fee | Please provide your fixed fee for undertaking all work in this matter falling into the ABA's UTBMS category L500. |  |

# Questionnaire

**Note to User:**

You can ask your firms to provide answers to the questions set out in the table that is relevant to your RFP. The questions here are examples only, and you should look to tailor your questions around what’s most important for your Company in the context of the relevant litigation matter.

|  |  |
| --- | --- |
| **Topic** | **Description** |
| Team | Please provide a brief description of the team expected to work on this matter. It is recommended to include a list of the key people expected to work on the matter and any relevant expertise or experience. |
| Staffing and Project Management | Describe how your firm intends to staff and project manage the litigation, with an explanation as to how your approach will minimize costs and maximize value and efficiency. |
| Strategies for Success | Please outline the strategies you recommend to achieve a successful outcome for [*Company name*]. |
| Key Risk Factors | Please identify the key risk factors which [*Company name*] faces in this litigation, and how your firm proposes to address each one. |
| Assumptions | Please list the specific assumptions that form the basis for the pricing, schedules and plan for your proposal. |
| Exclusions | Please list any limitations or exceptions related to your proposal. In other words, what you DO NOT agree to deliver as part of your plan/proposal. |
| Why Your Firm? | Please explain why your firm is better suited than your competitors to take on this litigation. Please keep your answer brief, to the point and focused. General statements that any one of your competitors could make are not helpful.  |