

NEW YORK LIQUIDATION BUREAU
REQUEST FOR STATEMENT OF INTEREST

OUTSIDE COUNSEL PANEL

December 22, 2011

The New York Liquidation Bureau (“Bureau”) carries out the responsibilities of the Superintendent of Financial Services of the State of New York (“Superintendent”) in his capacity as receiver (“Receiver”) administering the affairs of impaired or insolvent insurance companies that are in court-ordered receivership. The Bureau acts on the Receiver’s behalf in discharging his duties to protect policyholders and creditors of insurance companies that have been placed into his receivership (“Estates”). The Bureau’s objective is to maximize the assets and resolve the liabilities of such companies in an effort to return rehabilitated companies to the marketplace or to distribute the assets of liquidating companies to creditors. A current list of Estates under the Receiver’s receivership may be found at <http://www.nylb.org>.

The Bureau is also responsible for the adjudication and payment of claims which meet the criteria for coverage under the Property/Casualty Insurance Security Fund, Public Motor Vehicle Liability Security Fund and Workers’ Compensation Security Fund.

I. DESCRIPTION OF SERVICES

The Bureau is seeking to place experienced and highly skilled law firms and sole practitioners (“Law Firms”) on its outside counsel panel (“Panel”) to perform legal services as set forth in Section II. The Bureau will select Law Firms from the Panel on an as-needed basis, giving consideration to expertise, past experience, and availability.

The Bureau invites all qualified Law Firms (“Proponents”) to draft and submit to the Bureau, at Proponent’s expense, a statement of interest (“Statement of Interest”) in accordance with the requirements outlined in this request for statement of interest (“RSI”). Proponents selected to serve on the Panel (“Awardee”) will perform services solely on behalf of the Superintendent as Receiver, not in his capacity as regulator.

II. LEGAL MATTERS AND ALLOWABLE FEES

The Bureau requires legal services from outside counsel in the six general areas listed below (a more detailed list of specific areas of expertise required by the Bureau is set forth in Section IV below):

- A. General Liability Claims:** To represent insureds who are the subject of claims for personal injury, property and casualty loss and other general liability claims covered by policies written by the Estates. In connection with these assignments, the Bureau will pay \$140 per hour for work performed by partners, \$120 per hour for work performed by associates and \$60 per hour for work performed by paralegals. Appellate work under this category is subject to the same fee schedule. For a breakdown of the specific areas of legal expertise relating to general liability claims that the Bureau may at times require from the Law Firms on its Panel, see Section IV.B.1 below.

- B. Professional Liability Claims (including Medical Malpractice):** To represent insureds who are the subject of professional liability claims covered by policies written by the Estates. In connection with these assignments, the Bureau will pay \$160 per hour for work performed by partners, \$120 per hour for work performed by associates and \$60 per hour for work performed by paralegals. Appellate work under this category is subject to the same fee schedule.
- C. Workers' Compensation Claims:** To represent insureds who are the subject of workers' compensation claims covered by policies of the Estates. In connection with these assignments, the Bureau will pay the rates and fees set forth in the Workers' Compensation Fee Schedule attached as Exhibit A.
- D. Fidelity and Surety:** To retain Law Firms to represent insurance companies in matters relating to fidelity and surety bond insurance policies written by the Estates. In connection with these assignments, the Bureau will pay \$140 per hour for work performed by partners, \$120 per hour for work performed by associates and \$60 per hour for work performed by paralegals.
- E. Insurance Coverage Matters and First Party Claims:** To retain Law Firms to represent the Receiver regarding insurance coverage matters and first party claims. The duties of these Law Firms will include litigating declaratory judgment actions, conducting hearings before court-appointed referees, drafting coverage opinions and providing legal advice. In connection with these assignments, the Bureau will pay \$140 per hour for work performed by partners, \$120 per hour for work performed by associates and \$60 per hour for work performed by paralegals. Appellate work under this category is subject to the same fee schedule.
- F. Bureau and Receivership Matters:** To retain Law Firms to represent the Receiver in matters relating to, *inter alia*, insurance company transactions and tax issues, Bureau contracts and commercial transactions, Bureau labor and employment issues, Bureau real estate leasing, insurance law opinions and advice, and reinsurance issues. In connection with these assignments, the Bureau will pay an amount not to exceed \$350 per hour for equity partners, \$300 per hour for non-equity partners, \$250 per hour for senior associates (seven or more years out of law school), \$200 per hour for junior associates, \$150 per hour for full-time contract lawyers and attorneys not yet admitted to the bar, and \$75 per hour for paralegals. Appellate work under this category is subject to the same fee schedule. For a breakdown of the specific areas of legal expertise relating to Bureau and receivership matters that the Bureau may at times require from the Law Firms on its Panel, see Section IV.B.7 below.

III. RULES AND INSTRUCTIONS

In order to facilitate a fair evaluation of all Statements of Interest, the Bureau requires that all Statements of Interest maintain a uniform format. Accordingly, all RSI's should adhere to the requirements outlined in this RSI. The Bureau may, in its sole discretion, modify, rescind or provide an addendum to this RSI, require Proponents to revise their Statements of Interest or supply additional information in response, and/or invite any Proponent to appear for an interview.

All compliant Statements of Interest will be reviewed by a committee that will, under the supervision of the Bureau's Chief Compliance Officer, consider Proponent based exclusively on the Statements of Interest submitted, the quality of legal services previously provided, and any subsequent interviews with Proponent and/or additional information submitted by Proponent at the request of the Bureau.

Statements of Interest must specifically supply all items of information requested in Section IV below in the exact format set forth below. Material deviations from the required format will likely result in disqualification of the Statement of Interest. If any item in Section IV does not apply to Proponent, Proponent must specifically indicate that the item is not applicable. Proponents may not satisfy an item of requested information by submitting or referring to a brochure, promotional or descriptive literature, or any other document, unless the request expressly permits such submission or reference.

Statements of Interest must be formatted in 12-point or larger font. Each Proponent shall submit one original and six copies of its Statement of Interest. Each Statement of Interest must be signed and dated by a partner or member of the Law Firm. In submitting signed Statements of Interest, Proponent certifies that the information in the Statements of Interest is materially complete, truthful and accurate.

Proponent shall be bound by the information contained in its Statements of Interest. Statements of Interest may be withdrawn from consideration at any time by written submission to Acting Chief Compliance Officer, Evelyn Delgado, at the address listed below.

Statements of Interest must be sent to:

New York Liquidation Bureau
110 William Street
New York, New York 10038
Attn: Evelyn Delgado
Acting Chief Compliance Officer
RSI for Legal Consultant Panel

Statements of Interest will be accepted until further notice and will be evaluated in the order in which they are received.

Proponents may submit written questions at any time via e-mail to Patricia Fischer, Senior Executive Coordinator (pfischer@nylb.org), with a CC to Evelyn Delgado, Compliance Officer (edelgado@nylb.org).

Except as provided in this RSI and as otherwise necessary for conducting business operations previously established with the Bureau, Proponents may not communicate with Bureau personnel who are involved in the review, evaluation or selection of Proponents. Proponents (including their attorneys) may not directly attempt to influence the process of evaluating and selecting Proponents for the Panel, except through the submission of an RSI and any subsequent interview. The Bureau will disqualify Proponents who engage in prohibited communications of a material nature, as determined by the Bureau.

IV. CONTENTS OF STATEMENT OF INTEREST

Statements of Interest shall set forth the following information:

A. General Information

1. Name of the Proponent.
2. Primary Office Address (include county).
3. General Telephone and Fax Numbers.
4. All Other Office Addresses (include counties).
5. Contact Person (include specific contact information, including e-mail address).
6. Alternate Contact Person (include specific contact information, including e-mail address).

7. List Proponent's tax identification number.
8. Provide a list of all governmental or quasi-governmental agencies Proponent has provided this type of services to within the past five years.

B. Expertise

The Bureau requires the services of Law Firms which possess expertise in certain areas of the law. To constitute an "area of expertise," one or more resident partners or members of the Law Firm must individually possess the requisite expertise in the relevant subject matter ("Specialized Partner"). To be considered a Specialized Partner, each Specialized Partner must:

- i. with respect to litigation expertise, have individually successfully first-chaired numerous significant jury trials to verdict in the relevant subject area and the applicable venues; or
- ii. with respect to transactional and advisory expertise, have individually successfully served as an advisor on, negotiated and closed numerous significant transactions in the relevant subject area; and
- iii. be recognized as an expert in the field.

Select one or more of the following areas of legal expertise (in italics below) which Proponent possesses and seeks to provide to the Bureau.

A Proponent's over-selection of areas of expertise to include areas in which Proponent does not possess the requisite expertise will negatively impact the Bureau's consideration of Proponent for placement on the Panel.

1. General Liability Claims.
 - a. *Personal Injury - General.*
 - b. *Personal Injury - Automobile/No-Fault.*
 - c. *Personal Injury - Lead Paint.*
 - d. *Personal Injury - Construction/Labor Law.*
 - e. *Subrogation.*
 - f. *Environmental/Toxic Torts (e.g., asbestos, etc.).*
 - g. *Product Liability (e.g., breast implants, tainted blood, etc.).*
 - h. *Property Damage.*
 - i. *Other (specify).*
2. Professional Malpractice Claims.
 - a. *Medical Malpractice.*
 - b. *Other Professional Malpractice (attorney, architect, etc.).*
3. Workers' Compensation Claims.
4. Fidelity and Surety Claims.
5. Insurance Coverage (Primary and Excess) Litigation, Opinions and Advice.

6. Title Insurance Claims.
7. Bureau and Receivership Matters.
 - a. *Insurance Company Transactions (e.g., receivership asset sales).*
 - b. *Insurance Company Tax Issues.*
 - c. *Insurance Law Opinions and Advice ('particularly with regard to Articles 74, 75, 76 and 77 of the New York Insurance Law and Article 6A of the Workers' Compensation Law).*
 - d. *Reinsurance and Reinsurance Coverage.*
 - e. *Bureau Contracts and Commercial Transactions.*
 - f. *Bureau Labor and Employment Matters.*
 - g. *Bureau Real Estate Leasing.*
 - h. *Miscellaneous (specify).*

C. Facts Establishing Expertise

For each area of expertise selected above, set forth the following:

1. The approximate percentage of Proponent's total work hours performed in the area of expertise.
2. The names of the Specialized Partners for each selected area of expertise.
3. The approximate percentage of each Specialized Partner's total work hours performed in the selected area of expertise.
4. If Proponent has selected General Liability Claims, Professional Malpractice Claims, Workers' Compensation Claims and/or Fidelity and Surety Claims (collectively, "Standard Insurance Claims") as an area of expertise, specify for each foregoing area of expertise the total number of cases in each area of expertise in which Proponent currently represents one or more plaintiffs and the total number of cases in which Proponent currently represents one or more defendants. Of the cases in which Proponent represents one or more defendants, set forth the number of cases in which Proponent is insurer-appointed counsel.
5. With respect to litigation expertise, set forth the specific venue(s) in which each Specialized Partner has individually successfully first-chaired numerous significant jury trials to verdict and the number of such verdicts in each such venue.
6. State the title, author and date of any articles or publications in relevant area(s) of expertise written by Applicant's attorneys within the last five years (hard copies of the relevant portions of these documents may be attached to the Statements of Interest).
7. A description of any special qualifications and/or certifications that Proponent or any of its attorneys possesses relative to the selected area(s) of expertise.
8. Any other facts relevant to establishing Proponent's expertise in the selected area(s) of expertise.

D. Staff and Resources

1. Briefly describe the organizational form (e.g., partnership, professional corporation, etc.) and organizational structure of Proponent.
2. Set forth the aggregate number of full-time employees of Proponent (including all partners,

members or other owners) and, of those, specify the number of equity partners (or members), non-equity partners, full-time senior associates (seven or more years out of law school), full-time junior associates, full-time contract attorneys, full-time paralegals and full-time support staff and other employees (each employee should be placed into only one of the foregoing categories).

3. For all Specialized Partners, specify names, state(s) and year(s) of admission, years of experience in the relevant area(s) of expertise and relevant professional affiliations and associations.
4. [Optional] Proponent may set forth the number of its full-time paralegals and support staff in specialized positions relevant to a selected area of expertise, along with a brief description of each such position (*e.g.*, nurse paralegals, investigators, experts, accountants, etc.).
5. Specify any legal bill review program, system or service, such as Allegiant Systems or Allen Gray, Inc., into which Proponent has submitted its bills or invoices.
6. Set forth Proponent's professional liability insurance coverage, including current aggregate and per-occurrence limits. Proponents seeking to be qualified for General Liability matters must carry a minimum of \$1,000,000 of coverage per occurrence and in the aggregate. Proponents seeking to be qualified in any other expertise area must carry a minimum of \$3,000,000 per occurrence and in the aggregate.

E. Reputation and Integrity

1. State Proponent's number of years in business.
2. State all names used by the Proponent within the past 10 years.
3. Certify that the Proponent and all of the staff who will potentially work on assignments are in good standing in all jurisdictions in which they have been licensed or certified.
4. For all Proponents who have worked on one or more Bureau matters in the last 10 years, respond to one of the three paragraphs below, as appropriate:
 - a. For all Proponents currently working on 20 or more Bureau matters, set forth a brief description of each such matter.
 - b. For all Proponents that are currently working on fewer than 20 matters but have worked on a total of 20 or more Bureau matters (including matters handled within the last 10 years), set forth a brief description of at least 20 such matters, including all Bureau matters currently being worked on by Proponent and the most recent Bureau matters previously worked on by Proponent.
 - c. For all Proponents that have worked on 19 or fewer Bureau matters (either currently or within the last 10 years), set forth a brief description of all such matters.
 - d. For each description required above, include the nature of the matter, the attorney(s) primarily responsible for the matter, the key issues and difficulties confronted in the matter, and the resolution of the matter.

5. For every judgment entered against Proponent and/or any of its attorneys as a result of a claim against Proponent and/or any of its attorneys for professional malpractice, negligence or other malfeasance, set forth the date, all monetary relief granted, all injunctive relief granted, and the amount of the monetary judgment that currently remains unsatisfied, if any.
6. Set forth the number of settlements within the last 10 years resulting in a payment of greater than \$10,000 in connection with any claims for professional malpractice, negligence or other malfeasance brought against Proponent or any of its staff.
7. If any of the Proponent's staff has been convicted of any crime (felony or misdemeanor), set forth the relevant facts relating thereto.
8. If the Proponent or any of its staff has been the subject of any investigation by any governmental authority within the last five years, provide a brief description of the circumstances of each investigation, including the name of the investigating authority, the nature of the investigation, the date on which the investigation was commenced, and the status or disposition of the investigation.
9. Provide a brief statement regarding all sanctions, suspensions, reprimands, censures, disciplinary actions and/or disbarments imposed upon the Proponent or any of its staff by any professional or regulatory body in any state within the last 10 years.

F. Potential Conflicts of Interest

1. For each pending case in which Proponent represents one or more plaintiffs asserting a claim against an insurance company in the Receiver's receivership and/or one or more of its insureds, set forth the case name, venue, index number and type of claim.
2. For each pending case in which the Proponent represents one or more defendants in an action brought by an insurance company in the Receiver's receivership and/or one or more of its insureds, set forth the case name, venue, index number and type of claim.
3. Insurance Company Affiliations.
 - a. Disclose whether the Proponent is currently house counsel, in-house counsel or captive law firm to any insurance company and, if so, identify the insurance company.
 - b. Where the Proponent currently provides legal services to an insurance company and/or its insured(s), provide a list of all such insurance companies.
 - c. If any Proponent or any of its staff currently possesses a greater than five percent ownership interest in any insurance company, set forth the name of the attorney and the name of the insurance company.
4. A list of all insurance regulators, insurance receivers, guaranty associations, guaranty funds, security funds or insurance industry organizations currently represented by the Proponent.
5. If Proponent is applying to provide labor and employment legal services, specify whether the Proponent represents management or union.

6. A list all of all known employees of Proponent or any parents, subsidiaries or affiliates of Proponent who are related by blood or marriage to any Bureau employees and/or who are living in the same household as any Bureau employee.
7. A list all of all known employees of Proponent or any parents, subsidiaries or affiliates of Proponent who were previously employed by the Bureau.
8. A list of all known Bureau employees previously employed by Proponent or any parents, subsidiaries or affiliates of Proponent.
9. Whether Proponent or any parents, subsidiaries or affiliates of Proponent have been involved in litigation against the Receiver, the Bureau and/or its estates within the last 10 years as a party, witness or otherwise.
10. The names of all persons or entities, if any, asserting claims against the Bureau and/or its estates for whom Proponent is currently performing work.

G. Miscellaneous Information

1. For informational purposes only, set forth Proponent's specific fee schedules (for governmental entities, not-for-profit companies and private industry). If Proponent's fee schedules vary by area of practice, set forth the fee schedule for each area of expertise which Proponent has selected.
2. Provide a brief statement describing any *pro bono* work that Proponent has performed over the last five years.
3. Set forth whether Proponent has any unsatisfied judgments against it or has ever been the subject of a bankruptcy or receivership action or proceeding.
4. Provide any additional pertinent information not already provided in response to the above.

H. EEO/Diversity/MWBE Status

1. Set forth facts sufficient to demonstrate that Proponent is an equal opportunity employer and complies with all relevant federal, state and municipal equal employment opportunity and non-discrimination laws, regulations and executive orders. Proponent may attach hard copies of any equal employment opportunity policy statements or other relevant official firm documents.
2. Are you certified as an MWBE with the New York State Department of Economic Development? If yes, please provide a copy of your certification. If no, please list any other jurisdictions and/or certifying bodies that have deemed the Proponent to be minority or women owned. Please provide a copy of any such certification.
3. If Proponent has applied for, but has not, as of the date of this RSI, been awarded certification as an MWBE by the New York State Department of Economic Development, please submit proof of a pending application, and indicate the filing date thereof.

4. Please provide any additional information that may demonstrate your commitment to equal employment opportunity and diversity in the workplace.

V. EVALUATION AND AWARD

This RSI does not commit the Bureau to select an Awardee or to engage any Proponent. The Bureau reserves the right to: (a) rescind, revoke or modify this RSI prior to execution of an engagement letter with Awardee; and (b) utilize any ideas from the Statements of Interest. The Bureau may in its sole discretion: (a) reject a Statement of Interest if it is non-responsive or non-compliant with the requirements set forth in this RSI; or (b) waive minor discrepancies in any Statement of Interest. All materials submitted in response to this RSI become the property of the Bureau and will not be returned.

In selecting an Awardee, the Bureau will consider, among other factors it deems appropriate, whether the Proponent: (1) has the appropriate expertise to provide the particular services sought pursuant to this RSI; (2) has demonstrated that it will commit appropriate staffing and resources to perform the services; and (3) is in good standing in the State of New York and conducts its business in an ethical manner.

VI. ADDITIONAL TERMS AND INFORMATION

The information contained herein shall be used for the sole purpose responding to this RSI. The Bureau will not, and is under no obligation to, pay the costs, in whole or in part, incurred by Proponent during the preparation of a Statement of Interest. The Bureau disclaims responsibility and liability for any costs related to Proponent's participation in this RSI.

Upon completion of the selection process, the Bureau will notify each Proponent in writing whether they have been selected for the Panel.