

From: Persampieri, Nick
Sent: Thursday, October 20, 2022 12:36 PM
To: Brandi Backus <bbackus@historyassociates.com>
Subject: Vermont Public Records Act Request

Brandi,

Please find an attached letter and accompanying records. Thank you.

I hope you are having a good week.

Nick

Nicholas F. Persampieri
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-6902

SUSANNE R. YOUNG
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**STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER, VT
05609-1001**

October 20, 2022

Brandi Backus

By email to: bbackus@historyassociates.com

Re: History Associates, Inc., First Vermont Public Records Act Request

Dear Brandi,

By way of follow-up to my October 7, 2022 letter, please find attached two additional records which are responsive to the first Vermont Public Records Act request of History Associates, Inc., which was emailed to us by James Mitchell on July 8, 2022 at 4:32:59 pm, and was logged in as received by our office on July 9, 2022. We have redacted language from one of the records. The redacted language is exempt from disclosure pursuant to 1 V.S.A. § 317(c)(4) (attorney client-privilege and work product protection). The redacted language was transmitted for the purpose of obtaining legal advice and services related to potential litigation, was drafted in anticipation of litigation, and its disclosure would reveal mental impressions, opinions or conclusions of counsel.

If you believe any information or records have been withheld in error, you may appeal to Deputy Attorney General Joshua Diamond at the following email address: Joshua.Diamond@vermont.gov.

Sincerely,

/s/ Nicholas F. Persampieri

Nicholas F. Persampieri
Assistant Attorney General

From: [Peter Frumhoff](#)
To: [Lemuel Srolovic](#)
Cc: [Kline, Scot](#)
Subject: Re: Telephone Conversation re Climate Change Discussion on 3/29
Date: Monday, March 21, 2016 6:27:26 PM

Wed 12-1 would work well.

Look forward to talking then.

All best,

Peter

Sent from my iPhone

On Mar 21, 2016, at 5:39 PM, Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov> wrote:

Peter – could you speak with Scot Kline (VT AG’s office) and I this Wednesday afternoon in the noon-2 or 3-5 time frames? If yes, I’ll send a calendar invite. Thanks, Lem

Lemuel M. Srolovic
Bureau Chief
Environmental Protection Bureau
New York State Attorney General
212-416-8448 (o)
917-621-6174 (m)
lemuel.srolovic@ag.ny.gov

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From: [Matthew Pawa](#)
To: [Kolber, Justin](#)
Subject: RE: Climate Change RFP from Vermont
Date: Monday, February 1, 2021 10:18:03 AM
Attachments: [ATT00001.jpg](#)
[ATT00002.png](#)
[ATT00003.png](#)

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

Thanks Justin

Matthew F. Pawa | Partner
Hagens Berman Sobol Shapiro LLP
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Named to [2016 Elite Trial Lawyer List](#) by *The National Law Journal*



From: Kolber, Justin <justin.kolber@vermont.gov>
Sent: Monday, February 1, 2021 9:42 AM
To: Matthew Pawa <mattp@hbsslaw.com>
Subject: Climate Change RFP from Vermont

Hi, Matt,

Please see the attached.

Thanks,
Justin

Justin Kolber
Assistant Attorney General
Vermont Attorney General's Office
Environmental and Public Protection Divisions
109 State Street
Montpelier, VT 05609
(802) 828-5620
justin.kolber@vermont.gov
pronouns: he/him/his

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**STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER, VT
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February 1, 2021

BY ELECTRONIC MAIL ONLY

Matthew F. Pawa
Hagens Berman Sobol Shapiro LLP
1280 Centre Street, Suite 230
Newton Centre, MA 02459

mattp@hbsslaw.com

Re: Request for Proposal - Legal Services

Dear Matt:

The Vermont Attorney General's Office submits the enclosed Request for Proposal of Legal Services.

Should you have any follow up questions, please do not hesitate to contact me directly.

Sincerely,

A handwritten signature in black ink, appearing to read "Justin Kolber".

Justin Kolber
Assistant Attorney General
Environmental Protection Division

Enclosure

February 1, 2021

STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL

REQUEST FOR PROPOSAL OF LEGAL SERVICES

I. INTRODUCTION

The Vermont Attorney General's Office (AGO) has statutory authority to represent the State in "all civil and criminal matters," and has the "general supervision of matters and actions in favor of the State." 3 V.S.A. §§ 152, 159; *also* 3 V.S.A. § 157 (AGO appears for State when, in AGO's judgment, interests of the State require).

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

II. SCOPE OF SERVICES

Examples of work which the AGO might require of outside counsel include the following:

1. Investigate and assess claims [REDACTED]
2. Prepare and prosecute litigation against potential liable parties.
3. Assist in all phases of the investigation and litigation, including but not limited to:
 - a) preparing complaint(s), filing complaint(s), service of summons;
 - b) drafting motions and responses to motions, including discovery, pretrial, and dispositive motions as appropriate;
 - c) drafting and responding to discovery requests propounded on the State of Vermont or AGO and to the defendants and any third parties;
 - d) reviewing, analyzing, and tracking documents obtained in discovery;
 - e) handling discovery disputes and other discovery matters;
 - f) taking depositions, defending depositions, preparing witnesses for depositions;
 - g) identifying experts to testify on behalf of the State of Vermont;
 - h) preparing witnesses for trial testimony;
 - i) representing the State of Vermont in trial or any settlement negotiations;
 - j) representing the State of Vermont in any appeal of any judgment or verdict rendered in the action, and if applicable, any remand from appeal;

[REDACTED]

- k) coordinating litigation with other states and the federal government to promote, to the extent beneficial, a unified approach to litigation.
- 4. Advise the AGO on the conduct of the case and on strategy and tactics for each phase of the case.
- 5. Respond to public records requests: Outside entities may send public records requests to the AGO regarding this matter. The AGO will require resources in place to scan, search, redact, and produce responsive documents. In appropriate circumstances the AGO may need to assert and defend certain exempt materials from production.
- 6. Perform related tasks as reasonably needed to facilitate the goals and objectives of the investigation and anticipated litigation.
- 7. Achieve deadlines for deliverables as determined by the AGO.

III. SELECTION CRITERIA

In the selection of counsel, the AGO seeks:

- Exceptional subject matter, trial, and appellate legal skills and experience;
- Knowledge and leadership in the legal areas associated with the investigation and anticipated litigation [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- Proven ability to manage a team of lawyers and support staff to ensure efficient and effective operations to achieve the goals of the investigation and anticipated litigation;
- Extensive experience in providing advice and guidance regarding complex civil litigation to public sector entities;
- The capacity to assign multiple attorneys and support staff to facilitate the goals of investigation and anticipated litigation;
- An excellent reputation within the legal community and beyond;
- A willingness to work under the direction of and with the AGO;
- No significant conflicts of interest, as determined by the State; for example, conflicts that would be difficult to waive or would raise questions about loyalty to the State of Vermont's interests; and
- Reasonable and competitive fee arrangements, including the financial capacity to sustain an investigation, litigation, and appeal. Outside counsel will undertake the investigation, litigation, and appeal on a contingency basis. The State of Vermont will owe counsel's fees and costs only if counsel secures a monetary recovery for the State of Vermont. Counsel shall not receive reimbursement for expenses incurred in the investigation, litigation, and appeal related to any defendant against whom counsel does not recover a settlement or judgment.

The AGO intends on opening negotiations with the applicant that the AGO determines has a reasonable likelihood of being awarded a contract based on the proposal, interview, and any supplemental submissions. It is anticipated that the proposed contract will be based upon the form attached to this Request for Proposals (RFP). Negotiations will focus on any weaknesses or deficiencies in the proposal as well as cost and pricing.

A written contract with the selected law firm(s) will require approval by the Deputy Attorney General, an Independent Review Panel, and the Secretary of Administration.

IV. PROPOSAL FORMAT

The proposal should include the following information:

1. A description of the firm's proposed litigation strategy [REDACTED]
[REDACTED]
[REDACTED]
2. A description of the firm's areas of expertise and experience, including experience with the matters identified in this RFP.
3. Please include the specific identity and experience of the individual attorney or attorneys who would be providing services under the contract. Applicants should present a team of attorneys that have significant experience in complex civil and relevant subject-matter litigation. Full disclosure of all attorneys and staff who are not directly employed with the firm shall be disclosed. Attach copies of resumes of each member of the proposed team in your response to this RFP.
4. Identify whether your firm has been through significant developments in the past three years, such as a change in ownership or restructuring. Also, please identify whether you anticipate any significant changes within the next five (5) years.
5. An expression of willingness to work under the direction of and with the AGO on this matter.
6. A description of the existence of any possible conflicts of interest, including any lawsuits and disputes where the firm represents interests adverse to the State of Vermont; a representation that the firm would have no conflicts of interest, for example, conflicts that would be difficult to waive or would raise questions about loyalty to the State of Vermont's interests; and a representation as to other clients the firm represents in the subject area of this RFP. In addition, applicants, including any equity owners of the firm, will identify whether they have previously made campaign contributions to the current Attorney General or otherwise registered lobbyists or lobbyist employers with the State of Vermont.
7. Please report any professional sanctions or other prior, pending or threatened governmental or regulatory proceedings which would have an adverse impact on the firm

or any member of the firm within the last ten (10) years. Please also include an explanation and indicate the current status or disposition.

8. Within the last ten (10) years, has your firm, or a partner or attorney in your firm, been involved in litigation or other legal proceedings about legal services provided by your firm, partner, or attorney? If so, please provide an explanation and indicate the current status or disposition.
9. Please provide your proposed contingency fee arrangement including, but not limited to, allocation of expenses and costs. This proposal should also include information about your firm's financial capacity to sustain complex and protracted litigation on a contingency fee basis.
10. Please provide the names and contact information of three (3) references, including at least one (1) governmental client.

Please be aware that the State of Vermont is subject to the Access to Public Records Act. 1 V.S.A. § 315 et. seq. As a consequence, though the State would intend to assert any appropriate privileges, the State cannot necessarily assure the confidentiality of an RFP response.

V. OTHER

Statement of Rights

To secure assistance that is deemed to be in the best interest of the State, the AGO reserves the right to accept or reject any and all bids, in whole or in part, with or without cause, and to waive technicalities in submissions.

Requirements for Submission

If interested in serving the AGO in the capacity described above, please submit an electronic copy of the proposal no later than the close of business on **February 15, 2021**, to Joshua R. Diamond, Deputy Attorney General, Office of the Attorney General, at joshua.diamond@vermont.gov. All proposals must have the e-mail heading: **Climate Change Litigation**.

Proposals received after the submission deadline will not be considered.

Proposal Inquiries

Questions concerning this request for proposals should be sent in writing to: Joshua R. Diamond, Deputy Attorney General at joshua.diamond@vermont.gov.

Anticipated Schedule

- | | |
|--------------------------------------|----------------------------|
| 1. Responses due to RFP | February 15, 2021 |
| 2. Invitations for interviews issued | February 19, 2021 |
| 3. Interviews concluded | March 12, 2021 |
| 4. Review panel oversight completed | March 26, 2021 |
| 5. Contract awarded | April 9, 2021 ³ |

³ Contract contingent upon successful negotiation of terms and approval by the Secretary of Administration.