

BOROUGH OF NEW PROVIDENCE

B O R O U G H O F
NEW PROVIDENCE

SETTLED IN 1720

**REQUEST FOR QUALIFICATIONS
FOR THE PROVISION OF
LEGAL AND OTHER PROFESSIONAL SERVICES**

Planning Board Attorney

ISSUE DATE: September 12, 2016

SUBMISSION DEADLINE: October 17, 2016

ADDRESS ALL QUALIFICATION STATEMENTS TO:

OFFICE OF THE BOROUGH CLERK

Municipal Building

360 Elkwood Avenue

NEW PROVIDENCE, NEW JERSEY 07974

GENERAL INFORMATION & SUMMARY

ORGANIZATION REQUESTING QUALIFICATIONS

BOROUGH OF NEW PROVIDENCE
360 ELKWOOD AVENUE
NEW PROVIDENCE, NEW JERSEY 07974

CONTACT PERSON

DOUGLAS MARVIN, ADMINISTRATOR
908-665-1400

PURPOSE OF REQUEST

The BOROUGH OF NEW PROVIDENCE (the "BOROUGH") is soliciting Qualification Statements from interested persons and/or firms for the provision of professional services for the calendar year 2017, with possible one-year extensions through 2019 as more particularly described herein. Through a Request for Qualification process described herein, persons and/or firms interested in assisting the BOROUGH with the provision of such services must prepare and submit a Qualification Statement in accordance with the procedure and schedule in this RFQ. The BOROUGH will review Qualification Statements only from those persons and/or firms that submit a Qualification Statement which includes all the information required to be included as described herein, as determined in the sole and absolute discretion of the BOROUGH. The BOROUGH intends to qualify persons and/or firms that (a) possess the professional, financial and administrative capabilities to provide the proposed services, and (b) will agree to work under the compensation terms and conditions determined by the BOROUGH to provide the greatest benefit to the taxpayers of New Providence. The services of successful Respondents may be procured as soon as January 2017.

DEFINED TERMS

The following definitions shall apply to and are used in this Request for Qualifications:

"BOROUGH" - refers to the BOROUGH OF NEW PROVIDENCE.

"Qualification Statement" - refers to the complete responses to this RFQ submitted by the Respondents.

"Qualified Respondent" - refers to a Respondent who (in the sole and absolute discretion of the BOROUGH) has satisfied the qualification criteria set forth in this RFQ.

"RFQ" - refers to this Request for Qualifications, including any amendments thereof or supplements thereto.

"Respondent" or "Respondents" - refers to the interested persons and/or firm(s) that submit a Qualification Statement.

CONTRACT FORM

If selected, a respondent shall be required to execute the BOROUGH's form contract, which includes, among other things, indemnification, insurance, termination and licensing provisions. A complete copy of a draft BOROUGH form contract is available upon request.

It is also agreed and understood that the acceptance of the final payment by a vendor shall be considered a release in full of all claims against the BOROUGH arising out of, or by reason of, the work done and materials furnished under the contract.

REQUIREMENTS OF THE QUALIFICATION STATEMENTS FOR LEGAL AND OTHER PROFESSIONAL SERVICES

1. BOROUGH OF NEW PROVIDENCE FACTS AND FIGURES – The BOROUGH OF NEW PROVIDENCE is a legal, governmental entity. The BOROUGH was incorporated in 1899 and operates under N.J.S.A 40A:60-1, et seq., the borough form of government. The BOROUGH is governed by a mayor and borough council. The Borough Council sets policy, adopts the operating and capital budgets for the BOROUGH, enacts ordinances and sets the direction of how the BOROUGH OF NEW PROVIDENCE will provide government services. The Mayor is elected and is the chief executive. The Borough Administrator carries out the policies adopted by the Mayor and Borough Council.

The BOROUGH's population is approximately 12,000 and it consists of approximately 4 square miles of area. The BOROUGH provides a full range of municipal services.

The BOROUGH's operating budget is approximately \$18 million.

2. NATURE/ SCOPE OF SERVICES – The BOROUGH hereby solicits Qualification Statements from Respondents who have expertise in providing the following professional services: Planning Board Attorney. Respondents must demonstrate that they satisfy all professional requirements and will have the continuing capabilities to perform these services.

3. SUBMISSION REQUIREMENTS – Respondents must have a minimum of ten (10) years of experience in the practice of law. Each Qualification Statement must clearly indicate the position(s) sought. Respondents should submit a Qualification Statement that contains the following:

- A.** The name of the Respondent, the principal place of business and, if different, the place where the services will be provided;
- B.** A description of Respondent's overall experience in providing the type of services sought in the RFQ. At a minimum, the following information on past experience should be included as appropriate to the RFQ: (i) description and scope of work by Respondent; (ii) explanation of perceived relevance of the experience to the RFQ; and (iii) the education, qualifications, experience, and training of all persons who would be assigned to provide services along with their names and titles;

- C. A narrative statement of the Respondent's understanding of the BOROUGH's needs and goals;
- D. A listing of all other engagements where services of the types being proposed were provided in the past five (5) years. This should include other municipal governments and other levels of government. Contact information for the recipients of the similar services must be provided. The BOROUGH may obtain references from any of the parties listed;
- E. A listing of all immediate relatives of the principal(s) of Respondent who are BOROUGH employees or elected officials of the BOROUGH. For purposes of the above, "immediate relative" means a spouse, parent, stepparent, brother, sister, child, stepchild, direct-line aunt or uncle, grandparent, grandchild, and in-laws;
- A statement that neither the firm nor any individuals assigned to this engagement are suspended, or otherwise prohibited from professional practice by any federal, state, or local agency;
 - An Affirmative Action Statement (sample language attached);
 - A completed Non-Collusion Affidavit (copy of form attached);
 - A completed Owner Disclosure Information form (copy of form attached);
 - A statement that the Respondent will comply with the General Terms and Conditions required by the BOROUGH and enter into the BOROUGH's standard Professional Services Contract;
 - A copy of the Respondent's Business Registration Certification; and
 - A completed Disclosure Statement (copy of form attached).

4. **COST PROPOSAL** – Respondents should submit a cost proposal that would include cost to attend bi-monthly meetings of the Planning Board any proposed retainer, the services to be provided for the retainer, if services will be provided at a flat rate, if all or any services will be billed through hourly rates and a statement of the established rate(s). If any charges will be hourly, provide a list of all employees with their hourly rate who may provide services to the Borough. The BOROUGH does not provide payment for travel time to and from Planning Board meeting, so reimbursement for other travel expenses.

5. **EVALUATION** – The BOROUGH has structured a procurement process that seeks to obtain the desired results described herein, while establishing a competitive process to assure that each person and/or firm is provided an equal opportunity to submit a Qualification Statement in response to the RFQ. The BOROUGH will select the most advantageous proposal(s), if any and as determined in its sole and absolute discretion, based on all of the evaluation factors set forth at the end of this RFQ. The BOROUGH will make the award(s), if any, that is in the best interest of the BOROUGH, except that the appointment of Planning Board Attorney and Board of Adjustment Attorney will be made by the respective boards.

Qualification Statements will be reviewed and evaluated by the BOROUGH and its legal and/or financial advisors (collectively, the "Review Team"). The Qualification Statements will be reviewed to determine if the Respondent has met the minimum professional, administrative and financial areas and other requirements described in this RFQ. Each Respondent must satisfy

the objectives and requirements detailed in this RFQ. The successful Respondent shall be determined by an evaluation of the total content of the Qualification Statement submitted. Under no circumstances will a member of the Review Team review responses to an RFQ for an appointment that he/she or his/her firm submitted a response. Based upon the totality of the information contained in the Qualification Statement, including information about the reputation and experience of each Respondent, the BOROUGH will (in its sole and absolute discretion) determine which Respondents are qualified from a professional, administrative and financial perspective. Each Respondent who meets the requirements of the RFQ (determined in the sole and absolute discretion of the BOROUGH) will be designated as a Qualified Respondent and may then be given an opportunity to provide services to the BOROUGH.

The RFQ process commences with the issuance of this RFQ. It is anticipated that certain Qualified Respondents will be selected to begin providing services to the BOROUGH as soon as January 2017. There can be no assurance, however, that any Qualified Respondent will be selected.

All communications concerning this RFQ or the RFQ process shall be directed, in writing, to the BOROUGH's designated contact person:

Douglas Marvin, Borough Administrator
BOROUGH OF NEW PROVIDENCE
360 Elkwood Avenue, New Providence, New Jersey 07974

- 6. RESERVATION OF RIGHTS** – The BOROUGH reserves the right to:
- a. Not select any of the proposals;
 - b. Select only portions of a particular Respondent's proposal for further consideration (however, Respondents may specify portions of a proposal that they consider "bundled");
 - c. To supplement, amend or otherwise modify the RFQ through issuance of addenda to all prospective Respondents who have received a copy of this RFQ;
 - d. To change or alter the schedule for any events called for in this RFQ upon the issuance of notice to all prospective Respondents who have received a copy of this RFQ;
 - e. To conduct investigations of any or all of the Respondents, as the BOROUGH deems necessary or convenient, to clarify the information provided as part of the Qualification Statement and to request additional information to support the information included in any Qualification Statement; and
 - f. To suspend or terminate the procurement process described in this RFQ at any time (in its sole and absolute discretion). If terminated, the BOROUGH may determine to commence a new procurement process or exercise any other rights provided under applicable law without any obligation to the Respondents.

The BOROUGH shall be under no obligation to complete all or any portion of the procurement process described in this RFQ.

The BOROUGH shall not be obligated to explain the results of the evaluation process to any person or entity, including, without limitation, any Respondent.

The BOROUGH may require Respondents to demonstrate any services described in their proposal prior to award.

7. LIMITATIONS – This RFQ is not an offer, order or contract and should not be regarded as such, nor shall any obligation or liability be imposed on the BOROUGH by issuance of this RFQ. The BOROUGH reserves the right at the BOROUGH's sole discretion to refuse any submission. This RFQ does not constitute a Request for Proposal ("RFP") and does not commit the BOROUGH to issue an RFP.

8. USE OF INFORMATION – Any specifications, drawings, sketches, models, samples, data, computer programs, documentation, technical or business information and the like ("Information") furnished or disclosed by the BOROUGH to the respondent in connection with this RFQ shall remain the property of the BOROUGH. When in tangible form, all copies of such Information shall be returned to the BOROUGH upon request. Unless such Information was previously known to the respondent, free of any obligation to keep it confidential, or has been or is subsequently made public by the BOROUGH or a third party, it shall be held in confidence by the respondent, shall be used only for the purposes of this RFQ, and may not be used for other purposes except upon such terms and conditions as may be mutually agreed upon in writing.

9. GENERAL TERMS AND CONDITIONS –

- A.** The BOROUGH reserves the right to reject any Qualification Statement in whole or in part or to waive any informalities in a Qualification Statement, and, unless otherwise specified by the respondent, to accept any item, items or services in the proposals should it be deemed in the best interest of the BOROUGH to do so.
- B.** In case of the failure by a successful respondent to perform, the BOROUGH may procure the articles or services from other sources, deduct the cost of the replacement from money due to the respondent under the contract and hold the respondent responsible for any excess cost occasioned thereby.
- C.** The respondent shall maintain sufficient insurance to protect against all claims under Workmen's Compensation, General, Professional and Automobile Liability.
- D.** Each Qualification Statement must be signed by the person authorized to do so.
- E.** Qualification Statements shall be submitted in quadruplicate and may be hand delivered or mailed consistent with the provisions of the legal notice to Respondents. In addition, an electronic copy of the submittal shall be provided to the Borough Administrator. The electronic copy may be provided on an

appropriate medium along with the hard copies of the submittal, or may be emailed to: Douglas.Marvin@newprov.org. In the case of mailed proposals, the BOROUGH assumes no responsibility for Qualification Statements received after the designated date and time and will return late Qualification Statements unopened. Proposals will not be accepted by facsimile. Proposals shall be in a sealed envelope, marked "Qualification Statement for the Provision of Legal and Other Professional Services." To be considered, proposals shall be delivered to or received by the BOROUGH Clerk no later than 11 a.m. on October 17, 2016.

- F.** Respondents are required to comply with the requirements of N.J.S.A. 10:5-31 et seq. See attached Exhibit A.
- G.** By submission of a Qualification Statement, the Respondent certifies that the service to be furnished will not infringe upon any valid patent, trademark or copyright and a successful respondent shall, at its expense, defend any and all actions or suits charging such infringement, and will save the BOROUGH harmless in any case of any such infringement.
- H.** No respondent shall influence, or attempt to influence, or cause to be influenced, any BOROUGH officer or employee to use his/her official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.
- I.** No respondent shall cause or influence, or attempt to cause or influence, any BOROUGH officer or employee to use his/her official capacity to secure unwarranted privileges or advantages for the respondent or any other person.
- J.** Should any difference arise between the contracting parties as to the meaning or intent of these instructions or specifications, the Borough Council's decision shall be final and conclusive.
- K.** All costs incurred by the Respondent in connection with responding to this RFQ shall be become solely by the Respondent. The BOROUGH OF NEW PROVIDENCE shall not be responsible for any expenditure of monies or other expenses incurred by the Respondent.
- L.** The checklist, affidavits, notices and the like presented at the end of this RFQ are a part of this RFQ and shall be completed and submitted as part of a Qualification Statement.
- M.** All Qualification Statements shall become the property of the BOROUGH and will not be returned.
- N.** All Qualification Statements will be made available to the public at the appropriate time, as determined by the BOROUGH (in the exercise of its sole and absolute discretion) and in accordance with law.

- O. The BOROUGH may request Respondents to send representatives to the BOROUGH for interviews with less than 24 hours advance notice.
- P. Neither the BOROUGH, nor its respective staffs, consultants or advisors (including, but not limited to, the Review Team) shall be liable for any claims or damages resulting from the solicitation or preparation of the Qualification Statement, nor will there be any reimbursement to Respondents for the cost of preparing and submitting a Qualification Statement or for participating in this procurement process.
- Q. If awarded a contract, your company/firm shall be required to comply with the requirements of **N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27**

END OF GENERAL INSTRUCTIONS

BASIS OF AWARD

A contract, if any, shall be awarded based upon the following factors:

EVALUATION FACTORS

- A. Relevance and Extent of Qualifications, Experience, Reputation and Training of Personnel to be assigned
- B. Knowledge of the BOROUGH OF NEW PROVIDENCE and the subject matter to be addressed under this engagement
- C. Relevance and Extent of Similar Engagements performed
- D. Qualification Statement contains all required information
- E. Reasonableness of Cost Proposal

QUALIFICATION STATEMENT CHECKLIST

THIS CHECKLIST MUST BE COMPLETED, INITIALED, SIGNED AND SUBMITTED WITH YOUR PROPOSAL. A PROPOSAL SUBMITTED WITHOUT THE FOLLOWING DOCUMENTS IS CAUSE FOR REFUSAL.

INITIAL BELOW

- | | | |
|----|--|-------|
| A. | An original and five signed copies of your complete proposal | _____ |
| B. | Non-Collusion Affidavit properly notarized | _____ |
| C. | Owners Disclosure Statement, properly notarized, listing the names of all persons owning ten (10%) percent or more of the proposing entity | _____ |
| D. | Authorized signatures on all forms | _____ |
| E. | Business Registration Certificate(s) | _____ |
| F. | Disclosure Statement | _____ |
| G. | Affirmative Action Statement | _____ |

Note: N.J.S.A 52:32-44 provides that the BOROUGH shall not enter into a contract for goods or services unless the other party to the contract provides a copy of its Business Registration Certificate and the Business Registration Certificate of any subcontractors at the time that it submits its proposal. The contracting party must also collect the state use tax where applicable.

THE UNDERSIGNED HEREBY ACKNOWLEDGES
THE ABOVE LISTED REQUIREMENTS

NAME OF RESPONDENT:

Person, Firm or Corporation

BY: (NAME)

(TITLE)

(REVISED 4/10)

EXHIBIT A

**MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE
N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127)
N.J.A.C. 17:27**

GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

EXHIBIT A (Cont)

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval

Certificate of Employee Information Report

Employee Information Report Form AA302 (electronically provided by the Division and distributed to the public agency through the Division's website at www.state.nj.us/treasury/contract_compliance)

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase & Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase & Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.**

NON-COLLUSION AFFIDAVIT

STATE OF NEW JERSEY)
) ss:
COUNTY OF _____)

I, _____ of the City of _____ in the County of _____ and the State of _____ of full age, being duly sworn according to the law on my oath depose and say that:

I am _____ of the firm of _____, the Respondent submitting the Qualification Statement, and that I executed the said Qualification Statement with full authority so to do; and that said Respondent has not, directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free, competitive bidding in connection with the Qualification Statement; and that all statements contained in said Qualification Statement and in this Affidavit are true and correct, and made with full knowledge that the State of New Jersey relies upon the truth of the statements contained in said Qualification Statement and in the statements contained in this Affidavit in awarding any contract for the named services.

I further warrant that no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by

_____ (N.J.S.A. 52:34-15)

(Also type or print name of Affiant under signature)

Subscribed and sworn to before me this ____
day of _____, 20__.

A Notary Public of _____

My Commission Expires: _____

OWNER DISCLOSURE INFORMATION

Set forth below are the names and addresses of all owners of 10% or more of the proposing business entity.

Name: _____

Name: _____

Address: _____

Address: _____

Name: _____

Name: _____

Address: _____

Address: _____

Name: _____

Name: _____

Address: _____

Address: _____

Name: _____

Name: _____

Address: _____

Address: _____

NAME OF BUSINESS ENTITY

SIGNATURE

TITLE

Notary Public of

My Commission Expires: _____, 20__.

DISCLOSURE STATEMENT

(To be submitted with Qualification Statement)

- (a) Is or was anyone in your firm or company or a member of his/her immediate family a member of the BOROUGH governing body within the last calendar year? If yes, then provide the name of the individual below and his/her relationship.

Yes____ No____

Name Position Relationship

- (b) Has any principal/partner of your firm been convicted of an indictable offense? If yes, then please provide further explanation and copies of any relevant documents.

Yes____ No____

Name Position Relationship

- (c) Has any individual who would provide service under this contract ever been sanctioned by the appropriate licensing board?

Yes____ No____

Name Position Term
Reason for censure:

- (d) Has the firm been found liable for professional malpractice in the last 5 years?

Yes____ No____

Reason for Action:

- (e) Has any member of your firm ever been barred from doing business with any state, BOROUGH or municipal government? If yes, please provide further written explanation including date and copies of relevant documentation.

Yes____ No____

Name State, County or Date
Municipality

- (f) Has your firm sued the BOROUGH OF NEW PROVIDENCE in the past five (5) years? If yes, please identify the matter/case and provide further written explanation including date and copies of relevant documents.

Yes____ No____

Name Date

By_____ Title_____