

**SOLICITATION ADDENDUM**

Date: **1/16/2018**  
Subject: **Disclosure Counsel Services RFP**  
Solicitation Number: **OGC-2018-01**  
Due Date/Time: **January 26, 2018 @ 4:00 pm EST**  
Addendum Number: **2**

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To All Suppliers:

The Commonwealth of Pennsylvania defines a solicitation “Addendum” as an addition to or amendment of the original terms, conditions, specifications, or instructions of a procurement solicitation (e.g., Invitation for Bids or Request for Proposals).

**The Issuing Office received the following questions regarding the above-referenced RFP and provides the following responses.**

**Q.1.** In Appendix D Question #1 we are asked to “confirm that our firm is prequalified in OGC’s Specialized Financial Services Pool.” If we are not prequalified, are we still eligible to respond to the aforementioned Request for Proposal?

**A.1.** You must be prequalified in OGC’s Specialized Financial Services Pool in order to respond to this RFP. You can still submit your qualifications to be considered for prequalification in this pool. If you submit your qualifications prior to the due date and time of the RFP (January 26<sup>th</sup> @ 4:00 pm) and are found to be prequalified, then your RFP submission will be reviewed and considered. Please note that your (RFQ) submission for prequalification in the Specialized Financial Services Pool is totally separate from your RFP submission and you must submit a separate RFP submission for RFP OGC-2018-01 Disclosure Counsel Services in order to be considered for this RFP. If you are interested in prequalification in this pool, please contact myself, Jordan Kiessling at [jkiessling@pa.gov](mailto:jkiessling@pa.gov) and I will provide you with a copy of the Request for Qualifications (RFQ) document. This document will outline everything that needs submitted for consideration for prequalification in OGC’s Specialized Financial Services Pool.

**Q.2.** In Appendix D, Question #3a we are asked to “Confirm that each member is admitted to practice law before the Supreme Court of Pennsylvania.” Is it a requirement that the entire team be licensed to practice law before the Supreme Court of Pennsylvania?

**A.2.** The attorney team members working on this engagement as disclosure counsel need to be qualified to practice before the Supreme Court of Pennsylvania, not the entire firm. Any paralegals or assistants do not need to be licensed.

**Q.3.** Would the PA Turnpike Commission be considered an agency, authority or instrumentality for purposes of Paragraph 12 of Appendix D?

**A.3.** Yes, the PA Turnpike Commission is considered an agency, authority or instrumentality for purposes of paragraph 12 of Appendix D.

**Q.4.** How many general obligation issuances (including any general obligation bond refundings) and all other bond/debt issuances for which the Commonwealth was the source of the credit being issued occurred during the prior twelve months?

**A.4.** Two.

**Q.5.** Approximately how many general obligation issuances (including any general obligation bond refundings) and all other bond/debt issuances for which the Commonwealth is the source of the credit does the Commonwealth anticipate will be issued during the next twelve months?

**A.5.** Two.

**Q.6.** How many legal services hours did the Office of the Budget require to advise and counsel the Commonwealth on general disclosure matters which did not arise from the issuance of a specific series of general obligation bonds during the prior twelve months?

**A.6.** 10-20 hours.

**Q.7.** How many legal services hours does the Office of the Budget anticipate that it will require to advise and counsel the Commonwealth on general disclosure matters which do not arise from the issuance of a specific series of general obligation bonds during the next twelve months?

**A.7.** 10-20 hours.

*Part I-4 of the RFP notes that during the term of the Disclosure Counsel Contract, the contractor may not serve:*

*(A) As bond counsel to the Commonwealth for any GO bond issue by the Commonwealth;*

*(B) As bond counsel, underwriter's counsel or disclosure counsel for any other bond or debt instrument issued or sold or offered for sale by the Commonwealth for which the revenues of the Commonwealth are the source of the credit being issued; or*

*(C) As bond counsel, underwriter's counsel or disclosure counsel for any bond or debt instrument issued or sold or offered for sale by an agency, authority or instrumentality of the Commonwealth for which the revenues of the Commonwealth are the source of the credit being issued.*

**Q.8.** Please describe what is meant by "the revenues of the Commonwealth" under (B) and (C) above with specificity.

**A.8.** Taxes and fees paid to the Commonwealth and its agencies, authorities, and instrumentalities; and, payments that non-Commonwealth persons or entities are contractually required to make to the Commonwealth or its agencies, authorities, or instrumentalities. The focus here is "what is the credit being sold". If the credit being sold derives from monies

received by the Commonwealth or its state-level agencies, authorities, or instrumentalities pursuant to law or contract, then the restriction applies.

**Q.9.** Please describe with specificity which Commonwealth/state issuers and bond issues are contemplated to be covered by (C) above. Is it intended to include conduit bond issuers such as PHEFA or PEDFA, where the borrower derives a portion of its revenues from the Commonwealth? Is it intended to include revenue bond issuers such as the Turnpike, PHEAA, Pennvest or PHFA, which may by contract or otherwise from time to time contribute revenues to the Commonwealth? Is the distinguishing factor whether the OS for the subject bond issue includes the Commonwealth's GO disclosure?

**A.9.** The restriction does not apply to the Commonwealth's conduit issuers (e.g., PEDFA, PHEFA) where the credit being sold is that of an issuer that is not the Commonwealth or any of the Commonwealth's agencies, authorities, or instrumentalities. While the Commonwealth cannot know all of the disclosure questions that may arise in a given year, the restriction does include the Turnpike Commission (for which the Commonwealth/OB does have certain disclosure duties) and PennVEST.

**Q.10.** Is (C) above intended to apply to any non-state issuers, which are Commonwealth instrumentalities, who derive any portion of their revenues from the Commonwealth, for example a school district?

**A.10.** The restriction does not apply to non-state issuers.

**Q.11.** In the case of each (B) and (C), if the bonds are directly purchased, will the contractor be prohibited from serving as purchaser's counsel?

**A.11.** Yes.

**Q.12.** Do the disqualifications described in (A), (B) and (C) above apply to SDB subcontractors or co-counsel?

**A.12.** Yes.

**Q.13.** In the case of each of (A), (B) and (C), what is the reason for the disqualification?

**A.13.** The Commonwealth is not willing to enter into a disclosure counsel contract which would place disclosure counsel in the position of having to opine on what disclosure must be made on a debt issuance for which the disclosure counsel is also simultaneously serving as bond counsel, underwriter's counsel, or purchaser's counsel.

**\* If you asked a question, and do not see your question listed, please let me know right away so we can get you a response as soon as possible.**

Except as clarified and amended by this Addendum, the terms, conditions, specifications, and instructions of the solicitation and any previous solicitation addenda, remain as originally written.



**pennsylvania**  
DEPARTMENT OF GENERAL SERVICES  
BUREAU OF PROCUREMENT

Respectfully,

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