



Request for Proposal

Outside Legal Counsel

July 2017

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STATE UNIVERSITIES RETIREMENT SYSTEM OF ILLINOIS

REQUEST FOR PROPOSALS FOR OUTSIDE LEGAL COUNSEL

I. SUMMARY

The State Universities Retirement System of Illinois (SURS) requests proposals from private law firms to provide legal advice on various legal matters including but not limited to investments, benefits issues and administrative law and procedure and tax related issues for the SURS Board of Trustees and the System. Responding firms must demonstrate experience and expertise in specific legal matters related to:

- 1) investments (especially the purchase of limited partnership interests in private equity, real estate, hedge funds and other alternative investments);
- 2) the Illinois Pension Code;
- 3) Illinois administrative law and procedure; and/or
- 4) tax related matters.

Such matters shall include, but are not limited to, custodian, securities lending, transition management, private equity, real estate, infrastructure, limited partnership representation, Illinois Pension Code application and interpretation, legislative drafting and state and federal tax issues. SURS aspires to utilize minority and women-owned firms as encouraged under Section 1-109.1(10) of the Illinois Pension Code (40 ILCS 5/1-109.1(10)). Accordingly, such firms are strongly encouraged to apply.

Note: A firm will be considered if it can provide services in any or all of the categories of legal services listed above.

II. AGENCY DESCRIPTION

SURS is the administrator of a \$20 billion cost-sharing, multiple-employer public employee retirement system established July 21, 1941, to provide retirement annuities and other benefits for employees, survivors and other beneficiaries of those employees of the state universities, community colleges, and certain other state educational and scientific agencies. SURS services 61 employers and approximately 230,000 members and annuitants. The plans administered by SURS include a defined benefit plan established in 1941 and a defined contribution plan established in 1998. SURS is governed by an 11-member board of trustees that includes four elected SURS members, two elected SURS annuitants, and five trustees appointed by the governor, of which the chairperson also serves as the appointed chair of the Illinois Board of Higher Education. SURS is funded by participant payroll deductions and annual employer contributions provided by the state of Illinois. By statute, SURS is defined as a “body politic and corporate” and is governed under Articles 1 and 15 of the Illinois Pension Code (40 ILCS 5/1, 5/15).

A copy of SURS' most recent (as of June 30, 2016) Comprehensive Annual Financial Report ("CAFR") is available for review, or to download, at www.surs.org.

III. SERVICES REQUIRED

- A. Review and/or draft contracts with investment consultants, custodians, investment managers and other investment related service providers including but not limited to providers of private equity and hedge fund investment vehicles;
- B. Provide advice on tax issues related to 401(a) governmental qualified plans;
- C. Provide advice on other various issues, including but not limited to: investment matters, real or potential conflict of interest situations, statute interpretation and legal interpretations as needed; application and interpretation of the Illinois Pension Code, administrative law matters; and
- D. Provide such other legal services as may be requested by SURS from time to time.

IV. PROPOSAL CONTENTS

Any firm responding to this RFP must submit its proposal via e-mail in one electronic document. A specific outline must be followed in order to facilitate SURS' review and evaluation of the responses received. A response to this RFP must include the following sections in the order listed:

- 1. Transmittal letter
- 2. Executive Summary
- 3. Firm's Expressed Understanding of the Services Required
- 4. Firm's Detailed Cost Projection
- 5. Firm's Responses to the Questions set forth below.

V. RFP QUESTIONS

A. Background:

- 1. Briefly describe your firm's background, size and history pertinent to the requested services in this RFP. Indicate which office will service SURS. Pay particular attention to public sector plan experience in the areas of investments (including private equity investments) and/or tax related services.
- 2. Describe, in detail, your firm's understanding of the services requested in this RFP. Provide a narrative that supports why you believe that your firm is uniquely qualified to undertake the proposed engagement.

3. Describe the relevant special services your firm provides, particularly those that may not be offered by other law firms.
4. Describe in detail your firm's knowledge of, and experience with, public sector defined benefit retirement plan as well as the qualified plan provisions of the Internal Revenue Code.
5. Describe in detail your firm's knowledge of, and experience with, Illinois state law in general, and more specifically, the Illinois Pension Code (40 ILCS 5 *et seq.*)
6. Describe your firm's understanding of the Illinois Freedom of Information Act (5 ILCS 140/1 *et seq.*) as it relates to private market investments.
7. Describe your firm's experience in negotiating custodial agreements, non-custodial securities lending agreements, transition management agreements and limited partnership agreements on behalf of public sector pension plans.
8. Describe the anticipated role of the SURS general counsel's office and the SURS investment staff in your firm's delivery of the requested services.
9. SURS expects that external counsel will provide an estimated cost and timeline of expected events prior to commencement of a project assignment. Please provide a sample timeline that your firm would use for such projects.
10. What resources are used to ensure terms that are competitive when negotiating real estate, private equity, infrastructure or other types of agreements.
11. Please provide a sample side letter document in reference to a potential private equity/real estate transaction on behalf of a public sector pension plan.
12. Within the past three years, have there been any significant developments in your firm such as changes in ownership or restructuring? Do you anticipate any significant changes in the future? If so, please describe.
13. What is your firm's policy as to continuing legal education for its attorneys?
14. Describe the on-line services, publications and other resources maintained by your firm that deal with public pension plans, including subscription services and periodicals. Will any of these resources be available to SURS' staff?
15. Has your firm or an attorney in your firm's employee ever been disciplined or censured by any regulatory body? If so, describe the principal facts.
16. How does your firm identify and manage conflicts of interest? What conflicts of interest might exist between the clients that your firm currently represents and the investment-related services requested in this RFP? Please detail any existing or potential conflicts that might arise between providing legal services for

general partners as well as limited partners. Please explain how these real or potential conflicts are managed?

17. Are there any potential conflict of interest issues for your firm in servicing SURS? If so, describe them.
18. Within the last five years, has your firm, or a partner or attorney in your firm, been involved in litigation or other legal proceedings relating to the provision of legal services? If so, provide an explanation and indicate the current status or disposition of the proceedings.
19. Does your firm represent the board of trustees of any other pension (public or private) plan? If so, list the full name, address and telephone number of each of the pension plans and telephone number of the executive director and general counsel.
20. List any professional or personal relationships your firm's attorneys may have with the trustees and or staff members of SURS.
21. List all attorneys you would expect to render legal services to SURS if your firm is engaged to serve as outside counsel and the area(s) of specialization of each. Describe the role of each attorney who would be assigned to SURS. Provide details as to each attorney's overall experience, number of years with your firm, educational background and professional affiliations. Are any of the attorneys listed, pursuant to this question, rated by Martindale Hubbell? If so, provide the Martindale Hubbell rating for each.
22. Describe your legal team's experience with similar work performed for other public pension clients. State whether or not the attorneys assigned to this team have any responsibilities other than providing legal services, and if so, specify such responsibilities.
23. Describe your firm's experience with respect to drafting legislation generally, and specifically, with respect to the Illinois Pension Code.
24. Describe your firm's backup procedures in the event one or more attorneys assigned to SURS leave the firm. Identify the key attorney who will be the primary contact and lead counsel in providing services to SURS, whose continuing status as such is an essential element of any contract.
25. Has any pension plan represented by your firm been engaged in litigation during the past three years, other than collection proceedings brought on behalf of the plan? If so, without disclosing any information that is not a matter of public record, describe the nature and cause of the proceedings, the course of the litigation and the outcome if completed.
26. Has your firm been asked to commence legal proceedings against a fund-client's sponsoring local or state governmental entity for which your firm was also rendering legal services? If so, what steps and procedures did your firm employ?

27. Describe your firm's ability to timely evaluate, comment, and provide legal recommendations with respect to draft/pending legislation.
28. Describe how your firm will keep SURS staff updated with respect to changing market regulations, such as Dodd-Frank regulations, or potential changes to the investment program, such as changes to the Foreign Bank Account Report ("FBAR") regulations.
29. Does your firm endorse the Institutional Limited Partners Association ("ILPA") Private Equity Principles (version 2.0 – January 2011)?
30. Describe your firm's diversity policies and practices. Identify any minorities, women and persons with disabilities that would be assigned to this account.

A. References:

Provide three client references for which your firm has performed work similar to that requested in this RFP. Provide each client's in-house counsel's (or, if none, CEO's) name, address and telephone number.

B. Previous Clients:

Identify all public sector clients who have terminated their working relationship with you in the past five years and a brief statement of your understanding of their reasons for doing so. Provide each such client's in-house counsel's (or, if none, CEO's) name, address and telephone number.

C. Insurance and liability:

1. What limitation on liability, if any, do you impose through your contract?
2. Describe the levels of coverage for legal malpractice insurance and any professional liability insurance your firm carries. List the insurance carrier(s) and each carrier's rating by a nationally recognized service.
3. Describe your firm's disaster recovery plan and facilities.

D. Fees:

Describe in detail the billing rates, practices and policies of your firm that would apply if your firm were engaged to serve as SURS' outside counsel. SURS is also interested in negotiating a flat fee structure for "routine work" (e.g., partnership agreement review, side letter drafting) to be performed by the selected firm(s). With that in mind, please propose a not-to-exceed fixed fee for recurring legal services contemplated by this request for proposal, clearly identifying the type of project and the associated fee, which should include all costs, reimbursable expenses, or other charges to SURS in connection therewith.

E. Appendices:

Appendix A – Biographies

Include biographies for all attorneys listed in your proposal. Indicate what year each attorney joined your firm and describe his or her position, current responsibilities, areas of expertise, experience, education, professional designations and memberships, and relevant publications and presentations dealing with the representation of public pension clients.

Appendix B – Sample Contract or Agreement

Attach a sample contract or agreement your firm uses for governmental pension fund legal services.

F. Other Information:

Describe any other processes, and provide any additional information, that you believe to be relevant to this RFP and your capability to provide the services requested.

VI. CONFLICTS OF INTEREST

The law firm and/or attorney(s) chosen must provide SURS with written assurance that no conflict of interest will exist between SURS and other clients.

VII. PROPOSAL SUBMISSION

In order to be considered for selection, proposals must be received via email in Adobe Acrobat or Word format by Ms. Karen Nyi at knyi@surs.org no later than 4:30 p.m. **(CDT), on Friday, August 11, 2017. Please reference the “Outside Legal Counsel RFP” in your proposal.** An e-mail confirmation will be sent confirming receipt of the proposal.

Proposals will be confidential during the selection process. Upon completion of the selection process, all responses, including that of the firm or individuals(s) selected, will be a matter of public record.

All materials submitted in response to the RFP become property of SURS. Proposals remain confidential during the selection process. However, upon completion of the selection process, all responses, including that of the individual or firm selected, will be a matter of public information and will be open to public inspection in accordance with the requirements of the Illinois Freedom of Information Act, 5 ILCS 140/1, *et. seq.*

If, in response to this RFP, trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business responding to this RFP, such claim must be clearly made and such information must be clearly identified. (5 ILCS 140/7 and 7.5) Responses to this RFP with every page marked as proprietary, privileged or confidential will not satisfy this requirement. Bidders are required to make a good faith attempt to properly identify only those portions of the response that are truly furnished under a claim that they are proprietary, privileged or confidential and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business responding to this RFP.

Redacted Version of RFP Response: In the event responder believes certain materials in the submitted response are exempt from public disclosure in accordance with language in this section, responders are asked to provide a redacted version of the response it believes will be suitable for release under the Illinois Freedom of Information Act (5 ILCS 140/7 and 7.5)

However, any claim of privilege from disclosure is not definitive. SURS has the right and legal obligation to determine whether such information is exempt from disclosure under the Illinois Freedom of Information Act and no information will be considered or determined by SURS to be proprietary, privileged or confidential unless it is identified and/or separated as indicated herein. (5 ILCS 140/7 and 7.5)

VIII. AGENCY CONTACT AND SELECTION PROCESS

A. CONTACT WITH SURS - QUESTIONS

Prospective respondents who may have questions regarding this RFP may email Ms. Karen Nyi at knyi@surs.org **by July 28, 2017**. **Please reference the “Outside Legal Counsel RFP” in your communications.** The question(s) (without identification of the questioner) and the answer(s) will be emailed to all parties who have contacted Ms. Nyi via email indicating interest in responding to the RFP and will also be posted on the SURS website.

Rights Reserved. This RFP does not obligate SURS to complete the RFP process. SURS reserves the right to amend any segment of the RFP prior to the announcement of the selected legal counsel. In case of such amendment, all respondents will be afforded the opportunity to revise their proposals to accommodate the RFP amendment. SURS reserves the right to award all, part, or none of this contract and may award contracts to more than one law firm or individual if deemed appropriate and desirable. SURS also may, at its discretion, issue a separate contract for any service or groups of services included in this RFP. SURS may negotiate additional provisions to the contract awarded under this RFP.

B. EVALUATION AND SELECTION PROCESS

Proposal evaluation process. The evaluation process will be structured to secure highly skilled, diligent, responsive and experienced professional personnel who will be effective in providing the high quality of legal services that SURS desires. The primary objective of the evaluation process is to select a firm or individual(s) that:

- clearly demonstrates a thorough understanding of the scope of the engagement and the specific responsibilities entailed;
- possesses adequate resources to handle assigned responsibilities and to handle extenuating circumstances that may arise;
- assigns highly skilled, experienced, diligent, responsive and professional personnel to perform the required duties;
- maintains high ethical standards and reputation;
- is competitive in terms of fee;
- has no conflict of interest existing between SURS and other clients; and
- is willing to agree to the terms of the Addendum to Contract (attached as Appendix A).

Selection Process. The selection process under this RFP will be as follows:

1. Non-Qualifying Proposals

The initial evaluation team (the executive director, general counsel, associate general counsel, fiduciary counsel and chief investment officer) will evaluate each proposal to determine if it was submitted in accordance with the requirements set forth in this RFP. All non-qualifying proposals will be rejected at this time and the rejected proposing firms so notified.

2. Selection of Finalists

The qualifying proposals will be evaluated by the internal evaluation team. Responders may be invited to a due diligence interview with the evaluation team. Following a review of submitted materials, selected firms should be prepared to be interviewed or to make a presentation in Champaign, Illinois during the week of August 28, 2017, if requested. Based on the information provided in response to this criteria and information gained by due diligence, the evaluation team will recommend finalists for consideration by the SURS Board of Trustees. If selected as a finalist, responders should be prepared to make a presentation to the board of trustees in Champaign, Illinois during the September 14-15, 2017 board meeting, if requested.

All costs of responding to the RFP, including any travel expenses incurred, are at the cost of the responder.

IX. SCHEDULE

The following schedule may be changed if necessary. If the schedule changes, affected responders will be notified by mail. In no event will the dates listed below be changed to earlier dates.

RFP issuance on:	July 21, 2017
Written questions from respondents must be received by:	July 28, 2017
Answers to written questions will be disseminated on:	August 4, 2017
Proposals due:	August 11, 2017 by 4:30 PM Central Daylight Time

X. RULES REGARDING CONTACT – QUIET PERIOD POLICY

Please note the following Quiet Period Policy establishing guidelines by which the SURS Board of Trustees and SURS staff will communicate with prospective service providers during a search process. The quiet period for this RFP began on **July 21, 2017**.

- Initiation, continuation and conclusion of the quiet period shall be publicly communicated via the SURS website (www.surs.org) to prevent inadvertent violations;
- All board members, and SURS staff not directly involved in the search process, shall refrain from communicating with potential service providers regarding any product or service related to the search offered by the provider throughout the quiet period and shall refrain from accepting meals, travel, hotel, or other value from the providers;
- Throughout the quiet period, if any board member or SURS staff member is contacted by a potential service provider, the board member or SURS staff member shall refer the provider to Ms. Karen Nyi as the assigned SURS staff member who is directly involved in the search process;
- All authority related to the search process shall be exercised solely by the relevant committee or board as a whole, and not by individual board members;
- All information related to the search process shall be communicated by SURS staff to the relevant committee or board as a whole, and not to individual board members;

- The quiet period does not prevent board approved due diligence, client conference attendance, or communications with an existing service provider that happens to be a provider in the ordinary course of services provided by such service provider; however, discussions related to the pending selection shall be avoided during those activities;
- The provisions of this policy will apply to potential service providers throughout the quiet period and shall be communicated to providers in conjunction with any competitive proposal process; and
- A potential service provider may be disqualified from a search process for a violation of this policy.

Appendix A

ADDENDUM TO CONTRACT

As an addendum to the contract entered into between State Universities Retirement System (SURS) and _____ (the "Contractor") on _____, 2017, and in consideration of SURS entering into such contract, the Contractor also agrees to the following:

1) If the Contractor is an individual, he or she certifies that he or she is not in default on an educational loan as provided in Section 3 of the Educational Loan Default Act, 5 ILCS 385/3.

2) The Contractor certifies that it is not barred from being awarded a contract or subcontract because of a conviction or admission of guilt for bribery or for bribing an officer or employee of the State of Illinois or any other state in that officer or employee's official capacity as provided in Section 50-1 of the Illinois Procurement Code, 30 ILCS 500/50-1.

3) The Contractor certifies that it will provide a drug free workplace by engaging in the conduct prescribed in Section 3 of the Drug Free Workplace Act, 30 ILCS 580/3.

4) The Contractor certifies that it is not barred from contracting with SURS because of a violation of either Section 33E-3 (bid-rigging) or 33E-4 (bid rotating) of Article 33E of the Criminal Code of 1961, 720 ILCS 5/33E.

5) The Contractor certifies that neither it nor any substantially owned affiliated company is participating or shall participate in an international boycott in violation of the provisions of the U.S. Export Administration Act of 1979 or the regulations of the U.S. Department of Commerce promulgated under that Act.

6) The Contractor certifies that no fees, commissions, or payments of any type have been or will be paid to any third party in connection with the contract to which this is an addendum, except as disclosed in the contract or an exhibit thereto. The Contractor shall promptly notify SURS if it ever has reason to believe that this certification is no longer accurate.

7) To the extent Illinois law is applicable to Contractor, pursuant to 775 ILCS 5/2-105, Contractor agrees to:

- a) Refrain from unlawful discrimination and discrimination based on citizenship status in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination;
- b) Comply with the procedures and requirements of the Illinois Department of Human Rights' regulations concerning equal employment opportunities and affirmative action;

- c) Provide such information, with respect to its employees and applications for employment, and assistance as the Illinois Department of Human Rights may reasonably request; and
- d) Have written sexual harassment policies that shall include, at a minimum, the following information:
 - i) The illegality of sexual harassment;
 - ii) The definition of sexual harassment under State law;
 - iii) A description of sexual harassment, utilizing examples;
 - iv) Contractor's internal complaint process including penalties;
 - v) The legal recourse, investigative and complaint process available through the Illinois Department of Human Rights and the Illinois Human Rights Commission;
 - vi) Directions on how to contact the Illinois Department of Human Rights and the Illinois Human Rights Commission; and
 - vii) Protection against retaliation as provided by Section 6-101 of the Illinois Human Rights Act. A copy of the policies shall be provided to the Illinois Department of Human Rights upon request.

8) To the extent it applies to Contractor and this contract, Contractor agrees to comply with the Illinois Prevailing Wage Act, 820 ILCS 130/1, *et seq.*

9) Contractor shall maintain, for a minimum of five (5) years after the completion of the contract, adequate books, records, and supporting documents to verify the amounts, recipients, and uses of all disbursements of funds passing in conjunction with the contract. Contractor shall further make all such books, records, and supporting documents related to the contract available for review and audit by the internal auditor of SURS and by the Illinois Auditor General and shall cooperate fully with any audit conducted by the internal auditor of SURS and the Illinois Auditor General and will further provide the internal auditor of SURS and the Illinois Auditor General full access to all relevant materials.

10) Contractor agrees to notify the SURS Ethics Officer if it solicits or intends to solicit for employment any of the employees of SURS during the term of the contract.

11) Contractor understands that SURS and this contract are subject to the provisions of the Illinois Open Meetings Act (5 ILCS 120/1, *et seq.*) and the Illinois Freedom of Information Act (5 ILCS 140/1, *et seq.*).

12) Counterparts. This Agreement and Addendum may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement. The counterparts of this Agreement and

Addendum may be executed and delivered by facsimile or other electronic signature by any of the parties to any other party and the receiving party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.

Under penalties of perjury, Contractor certifies that _____ is its correct Federal Taxpayer Identification Number.

Contractor is doing business as a(n) (please circle applicable entity):

- Individual
- Sole Proprietorship
- Partnership
- Corporation
- Not-for-Profit Corporation
- Medical and Health Care Services Provider Corporation
- Real Estate Agent
- Governmental Entity
- Tax Exempt Organization (IRC 501(a) only)
- Trust or Estate.

Dated this _____ day of _____, 2017.

Contractor	State Universities Retirement System
By: _____	By: _____
Name: _____	Name: Martin M. Noven
Title: _____	Title: Executive Director