

July 27, 2020

SUBJECT: REQUEST FOR PROPOSALS FOR THE PERFORMANCE OF PROFESSIONAL LEGAL SERVICES FOR THE IAG SERVICE CORPORATION (RFP NUMBER 2020-07-001)

I. INTRODUCTION

The IAG Service Corporation (IAGSC), a 501(c)(4) not for profit corporation incorporated in the state of Delaware, requests proposals outlining qualifications and fee/rate structures for providing certain legal counsel services on an as-needed basis. Those legal services will generally be in the areas of intellectual property, government law (see list of states below), contracts, organizational governance, not for profit, tax and conflict of laws. A prospective proposer may respond to one or more of the primary practice areas requested, being intellectual property and government.

The IAGSC exists to provide certain administrative services to the E-ZPass Group through an Administrative Services Agreement. The E-ZPass Group is the largest interoperable tolling network in the world, currently consisting of 33 agencies and authorities with the system of electronic toll collection, known as E-ZPass, across 18 states – Delaware, Florida, Illinois, Indiana, Kentucky, Maryland, Maine, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Virginia, and West Virginia. Please refer to the E-ZPass Group’s web site at www.e-zpassiag.com for a complete list of E-ZPass Group members as well as more information regarding the E-ZPass Group member agencies and E-ZPass.

The IAGSC is seeking the services of one or more law firms that have prior experience providing legal services to state governments, agencies or authorities and/or to associations of state governments, agencies, or authorities, and/or to not for profit entities and that have significant experience and strength in the following legal practice areas: intellectual property, government contracts, organizational governance (with an emphasis on state agencies and authorities), not-for-profit law and conflict of laws, including the laws of the states where E-ZPass Group members are located. A more detailed description of the services requested is in Attachment A hereto.

A proposing law firm may choose to submit a proposal for one or more subject matters depending on areas of expertise. The successful proposer(s) will enter into retainer agreement(s) with the IAGSC. Various assignments, which may include legal advice to the E-ZPass Group (but not a single member), shall be made only by the Executive Director of the IAGSC, the Chair of the IAGSC Board of Directors, or the Chair of the E-ZPass Group’s Legal Committee.

The term of engagement will be for five (5) years and the IAGSC shall have the option to extend the engagement of one or more successful proposers for up to two (2) additional one-year periods.

The IAGSC reserves the right to engage multiple firms to provide these legal services.

II. REQUIREMENTS FOR THE SUBMISSION OF PROPOSALS

Proposers are expected to examine this RFP carefully, understand the terms and conditions for providing the legal services described herein, and to respond completely, fully and accurately. ANY FIRM THAT FAILS TO COMPLETE OR PROVIDE ANY OF THE DOCUMENTS REQUIRED AS SET FORTH BELOW MAY BE DISQUALIFIED FROM PARTICIPATING IN THE EVALUATION PROCESS AND BEING RECOMMENDED FOR AWARD.

A. Format of Proposal. All elements of proposal submissions shall be single-sided pages using 12 point or greater font size.

1. Proposal responses to Paragraph B, items 3, 8, and 10 below collectively shall be no more than a total of 20 pages in length
2. The proposal pages shall be numbered and labeled with the name of the law firm, the title of this RFP and the RFP number clearly indicated on the cover.
3. Each section of the proposal shall be separated and labeled in accordance with the proposal content requirements specified below.
4. Each resume of a firm or an individual as provided in Paragraph B, item 4 below, shall not exceed two, single-sided pages in length using 12 point or greater font size.

B. Content of Proposal.

Each proposal must contain the following information:

1. In the front of your Proposal, a copy of Attachment B (Agreement on Terms of Discussion), signed by an officer of your firm or company.
2. A completed copy of Attachment C (Company Profile).
3. Law firm profile and experience
 - a. An overview of the law firm's experience, personnel, head count by category of employee, and any other relevant general information about the law firm.
 - b. A brief history of the law firm, including the date established and a chronological listing of any mergers with and acquisitions of other law firms.
 - c. A description of the organization of the law firm's practice groups, with particular focus on the organization of the intellectual property practice area, including: its experience with service marks and with policing infringements; its knowledge and experience in handling patents of technology, and in particular for patents relating to electronic toll and fee collection or similar technologically sophisticated patents.

A further description of the firm's other practice areas, including its experience in advising state governments, agencies and authorities on organizational, governance, policy and procedure matters; its experience in advising governmental associations on organizational, governance, policy and procedure matters; its experience in state government contracts; its experience in advising governmental entities on conflict of laws matters, and its experience in advising not-for-profit entities.
4. Qualifications and experience of the law firm's staff that would be providing services

to the IAGSC, including resumes and a listing of relevant litigation/transactions for each attorney and paralegal who would be providing services to the IAGSC.

5. A representative listing of all governmental entities that the law firm has advised in the past five (5) years including: the name of the entity, a description of the types of matters handled, the dates of engagement, the name and contact information for the governmental entity employee(s) responsible for overseeing the law firm's work. The IAGSC may contact any of the persons or entities so identified.
6. The location(s) of the law firm's offices and identify the office(s) that will be providing services to the IAGSC and a description of the methods the law firm would use to communicate with IAGSC personnel and members, including Internet video communications.
7. A statement of any existing or potential conflicts of interest the law firm determines may exist in performing the services required under this RFP as well as a detailed description of the law firm's system for identifying such conflicts of interest. For the purposes of this RFP, a conflict includes, but is not limited to, the firm's representation of any party in a matter adverse to an E-ZPass Group member and for which the E-ZPass Group member has not previously granted a waiver. Please note that in some jurisdictions a public entity may not waive conflicts so that an adverse representation is not permitted. The statement must provide sufficient facts, legal implications and possible effects to appreciate the significance of each potential conflict of interest and a description of how the law firm proposes to resolve each such conflict.

Please note that the successful proposer(s) will have a continuing obligation to disclose to the IAGSC any actual or potential conflicts and to abide by all applicable rules of conduct applicable to attorneys.

8. A statement as to why the firm is uniquely qualified to perform the services required under this RFP including the firm's proposed technical approach to performance of the services outlined in Attachment A.
9. A fee schedule for the services described in this RFP including the hourly rates for professional services. Such fee schedule shall include the expenses that will be billed by the law firm, as follows:
 - photocopying, which cost may not exceed \$.05 per page, and shall not apply to copying less than 100 pages; and
 - other expenses that the law firm intends to bill separately.

The fee schedule will separately identify the flat price for the development of the guideline memorandum on procedures for addressing possible infringements of intellectual property rights, described in Section I.D. of Attachment A (Scope of Services) hereto, and not to exceed price for the preparation of annual updates to the guideline memorandum.

The IAGSC will not pay for or reimburse for any of the following: scanning charges, courier charges (unless prior approval is provided by the IAGSC, legal education or legal research (including computerized legal research), telephone (including cell phone) charges for voice or data usage, faxing, facilities, office supplies, books and publications, cabs or car services, non-attorney or non-paralegal staff time, summer interns or law interns not retained as attorneys, attorney hourly rates for persons not

admitted to the bar, time spent in the preparation of status reports (whether for internal use or prepared at the request of the IAGSC, bills (including responding to questions about bills) or fee estimates, file review time caused by a decision by the law firm to transfer work to other personnel, attorney time for supervision or secretarial work. The IAGSC will not pay for the attendance of more than one (1) attorney at any meeting, court appearance or deposition unless prior approval is provided by the applicable representative of the IAGSC and will not pay more than a nominal amount for the additional review of memos and other materials by supervising attorneys. In the event the firm incurs travel, meal or lodging expenses in connection with performing its responsibilities, such expenses must be approved in advance by the applicable representative of the IAGSC and are subject to the IAGSC's travel expense policy below.

- When the attorney uses a personal vehicle to provide services, the attorney will be reimbursed for travel expenses beyond normal commuting costs at a rate not higher than the Annual Federal Mileage Reimbursement Rate (as determined by the United States General Services Administration (GSA) – <http://www.gsa.gov/portal/content/100715>) per mile traveled by auto.
- When the attorney is asked to provide services outside 100 miles from the firm's office location, the actual cost of transportation as well as the cost for hotel accommodations and meals will be reimbursable hereunder when approved in advanced in writing by the applicable representative of the IAGSC. The cost for all meals and lodging on approved overnight trips is limited to the amounts established by the United States GSA for the locality which is the travel destination.
- GSA Rates: Domestic Rates: <http://www.gsa.gov/portal/category/21287>

The Executive Director of the IAGSC must provide written approval prior to making expenditures for out-of-pocket expenses in excess of one- thousand dollars (\$1,000) per specific expenditure and for all overnight trips, which are reimbursable expenditures as set forth above. All billings for out-of-pocket expenses in excess of twenty-five dollars (\$25) must be substantiated with receipted bills and provide said receipts with the appropriate billing.

Any claim for payment that does not meet these requirements of this Item 9 may be denied.

It is generally contemplated that, in all matters, the successful proposer will bill in accordance with the estimate for the assignment and will consult with the Chair of the E-ZPass Group Legal Committee prior to filing motions or taking any depositions. Outside consultants or experts may be retained only with the written consent of the Chair of the E-ZPass Group Legal Committee. The IAGSC reserves the right to refuse, reduce, or limit payment for any filings, services, or activities that were not approved by the IAGSC or the Chair of the E-ZPass Group Legal Committee.

10. A proposed approach to the problems/services outlined in Attachment A. We are particularly interested in the law firm's suggestions on how litigation matters should be handled given that the E-ZPass Group consists of members from numerous jurisdictions.

11. A description of the law firm's diversity programs and its commitment to diversity. Include a description of the participation of women, minorities, veterans, and persons with disabilities in the law firm, including, specifically, the number of women and minority attorneys by category (i.e. partner, counsel, of counsel, associate) and the percentage of the law firm that is owned by women and minorities.
12. Indicate the amount of professional malpractice insurance coverage carried by the law firm, the amount of any self-retention and the name of the carrier. Identify any claims made in the past five (5) years and include the nature of the claim.
13. Provide a certificate of insurance indicating the general commercial and liability (including automobile) coverage.

III. EVALUATION PROCESS

The proposals submitted will be evaluated by a committee consisting of staff and representatives from members of the IAGSC (the "**Evaluation Committee**"). Upon review of all proposals the IAGSC in its discretion may request that the highest ranked firms submitting proposals appear for an oral presentation focusing on how their firm will satisfy the requirements of this RFP. The IAGSC may limit the number of proposer(s) that can make oral presentations to permit efficient competition among the most highly rated. Should oral presentations be requested, it will be an opportunity for each short-listed proposer(s) to introduce its staff to the IAGSC, and to present supplementary information regarding its proposal and credentials as related to the specific needs of the IAGSC. The proposer(s) may use materials during this oral presentation; provided, however, that the presentation will be restricted to a maximum time period specified by the IAGSC, including the time allotted for a question and answer period. Information relating to the proposer(s)'s recent experience on similar assignments, approach to the work and the use of innovative and/or cost effective measures should be included in the oral presentation. Please provide the name and e-mail address of the person who should be contacted for presentation scheduling, if applicable, as well as an alternative in the event that person is unavailable. It should be noted that firms selected to make presentations might be given brief advance notice.

After evaluating proposals and oral presentations, if requested, the Evaluation Committee may enter into further discussions with the highest ranked proposer(s). The primary purpose of these discussions is to maximize the IAGSC's ability to get the best value, based on the requirements and technical criteria set forth in the RFP. Discussions may involve the identification of significant proposal weaknesses, ambiguities and other deficiencies that could limit a proposer(s)' award potential. The Committee may solicit a best and final offer from the highest ranked proposer(s). If negotiations are unsuccessful with the highest ranked proposer(s), the Evaluation Committee may choose to end them and proceed to negotiations with lower ranked proposer(s). More rounds of negotiations may be held with one proposer(s) than another. Negotiations will be structured to safeguard information and ensure that all proposer(s) in the competitive range are treated fairly.

After evaluation of the proposals and oral presentations, the Evaluation Committee will recommend to the Board of Directors of the IAGSC for award those law firms whose proposals are most advantageous to the IAGSC. The IAGSC Board of Directors may accept, reject or modify the recommendation(s) of the Evaluation Committee.

The review, rating and ranking of Proposals will be based upon the following technical criteria (considering the weight of the score for each criteria as identified below). After consideration

of these factors the IAGSC may enter into negotiations with the firm (or firms) deemed best qualified in terms of the forgoing factors to perform the required services.

1. The firm's fee schedule. (20%)
2. Conflicts identified. (5%)
3. Qualifications and experience of the proposed staff. (30%)
4. Quality and depth of experience of the firm in providing similar services to others. (20%)
5. The firm's proposed technical approach to performance of the services outlined in Attachment A. (15%)
6. The firm's commitment to diversity. (10%)

IV. SUBMISSION OF PROPOSAL

All Proposals must be delivered to: IAG Service Corporation via email to lwiedenmann@e-zpassiag.com in pdf format for review. All proposals must be received by the IAGSC no later than 2:00 PM on _Monday, August 31, 2020_. The email to lwiedenmann@e-zpassiag.com must identify "Response to RFP from [your firm name]" in the subject line and the content of the email must include the law firm name, the RFP Title, RFP Number (as stated above), name and contact information. The IAGSC assumes no responsibility for delays caused by emails or failure to deliver because of the size of the pdf attached to the email. No paper copies will be accepted.

The IAGSC assumes no responsibility for delays caused by any technical difficulties or other obstacles for any electronic submissions.

V. ADDITIONAL INFORMATION:

Should you have any questions, please email them to Linda Wiedenmann at lwiedenmann@e-zpassiag.com. All questions must be received at least ten (10) working days prior to the Proposal due date and reference RFP Number 2020-07-001_ in the subject line of the email. Neither Ms. Wiedenmann nor any employee of any member of the IAG is authorized to interpret the provisions of this RFP or accompanying documents or give additional information as to their requirements. If interpretation or additional information is required, it will be communicated by written addendum issued by the IAGSC and such writing shall form a part of this RFP, or the accompanying documents, as appropriate.

Under no circumstances will the IAGSC be responsible for any costs associated with the preparation or transmission of any proposals. There shall be no compensation for preparation for or expenses associated with attendance at any presentation made during the evaluation phase.

The IAGSC reserves the unqualified right, in its sole and absolute discretion, to reject all proposals, reissue the RFP or a substitute RFP, waive defects in proposals, undertake discussions and modifications with one or more firms, and proceed with the proposal or modified proposal, if any, which in its judgment will, under all circumstances, best serve the public interest.

Sincerely,

Linda Wiedenmann

Office Manager

IAG Service Corporation

Attachments

ATTACHMENT A

PERFORMANCE OF EXPERT PROFESSIONAL LEGAL SERVICES FOR THE IAG SERVICE CORPORATION – SCOPE OF SERVICES

Specific services to be performed by the successful proposer hereunder may include, but are not limited to the following:

I. Intellectual Property Matters

With respect to the intellectual property area of law, the successful proposer shall provide such counsel services as may be requested by the IAGSC, including, but not limited to:

- A. Perform research and provide advice and opinions relative to the existing E-ZPass, E-ZPass Plus, Driven By E-ZPass and E-ZPass Flex service marks.
- B. Provide all services required, including research, drafting of documents, and interfacing with regulatory bodies, to enable the IAGSC, on behalf of the E-ZPass Group and its members, to register additional service marks related to electronic toll collection and the use of E-ZPass, E-ZPass Plus, Driven By E-ZPass and E-ZPass Flex.
- C. Perform research, provide advice and opinions, and represent the IAGSC, the E-ZPass Group and its members regarding enforcement of the service marks E-ZPass, E-ZPass Plus, E-ZPass Flex and any other service marks
- D. In particular, the successful proposer will be required to provide a memorandum outlining the approach the IAGSC should take in determining how to handle possible infringements. This memorandum must identify the parameters for issuing a cease and desist letter, and for taking additional action, and shall be updated annually.
- E. Perform research and issue opinion letters and prepare legal positions regarding the intellectual property rights associated with any aspect of the technology utilized to implement electronic toll collection. This technology is presently protected through issued United States patents.
- F. Perform research and provide opinion letters and other legal advice regarding intellectual property issues arising in connection with the requirements for nationwide interoperability of electronic toll collection systems imposed by the Moving Ahead for Progress in the 21st Century (MAP-21) Act.

II. Contracts

With respect to the contracts area of law, the successful proposer shall provide such counsel services as may be requested by IAGSC, including, but not limited to:

- A. Review and provide advice and counsel on any aspect of a procurement conducted by the IAGSC or by any member of the E-ZPass Group on behalf of the E-ZPass Group.
- B. Draft request for proposals, contracts and other documents, advise as to the terms, conditions, purposes and effects thereof, and make recommendations for necessary courses of action to protect the interests of the IAGSC and the E-ZPass Group.

- C. Perform research and provide opinions as to the meaning and import of the terms of any existing contracts between the IAGSC, E-ZPass Group members and a vendor relative to electronic toll collection.

III. Governmental Entities and Organizations

With respect to the governmental instrumentalities and organizations area of law, the successful proposer will provide such counsel services as may be requested by the IAGSC, including, but not limited to:

- A. Perform research and provide advice and counsel relative to governance structures utilized at all levels of government, particularly those employed by associations whose members are comprised primarily of governmental entities. Be prepared to make organization/governance recommendations to the IAGSC.
- B. Perform research and provide advice and counsel relative to statutory and regulatory limitations pertaining to Not-for-Profit entities.
- C. Perform research and provide advice and counsel relative to the statutory and regulatory limitations within which the E-ZPass Group members operate in their respective states, particularly as it relates to the delegation of authority and the ability of each member to abide by uniform operational rules and procedures.
- D. Perform research and provide advice and counsel regarding governance structures utilized in the private sector, particularly as it relates to the requirements of the Sarbanes- Oxley Act, and regarding the creation of relationships with the public and private sector E-ZPass Group members.
- E. Perform research and provide advice and counsel regarding reciprocity and national interoperability strategies and goals.
- F. Perform research and provide advice and counsel regarding organizational policies and procedures as they may be affected by the requirements of the member agencies and applicable state and federal laws.

IV. Conflict of Laws

With respect to the conflict of laws area of law, the selected proposer shall provide such legal services as may be requested by the IAGSC, including, but not limited to:

Perform research and provide advice and counsel relative to the conflict of laws provisions in each state in which E-ZPass Group members are located.

V. General

With respect to all areas of law, the successful proposer shall provide such counsel services as may be requested by the IAGSC, generally including, but not limited to:

- A. Provide advice and opinions with respect to any matters, issues, actions or proceedings by, against or affecting the IAGSC, the E-ZPass Group and its members.
- B. Advise on litigation strategy, discovery and trial preparation and/or represent the IAGSC, the E-ZPass Group and its members in the defense or prosecution of any actions or proceedings before federal or state courts as well as administrative agencies.

- C. Cooperate fully with the IAGSC and its staff and advisors in the preparation of any documents and the performance of any other work related to the application of the law to the IAGSC, the E-ZPass Group and its members.
- D. Represent the IAGSC, the E-ZPass Group and its members' interests before legislative bodies, agencies, authorities and commissions at all levels of government; provide advice, opinions and pertinent information to assess the potential impact of government action on the IAGSC, the E-ZPass Group and its members' program goals.
- E. Provide any other legal advice, opinions and representation to the IAGSC as may be requested during the term of the retainer agreement, including any extensions, and perform such other services as may from time to time be agreed upon, including the retention of additional legal services, consultants and experts as deemed necessary and requested by the IAGSC. No services are to be subcontracted unless a proposal for the same is submitted to the Chair of the E-ZPass Group Legal Committee and the proposal is approved in writing by the IAGSC Executive Director or Chair of the E-ZPass Group Executive Committee.
- F. Interpret and provide general guidance to the IAG, the IAGSC, and to IAG members on general matters related to operations of the IAG, the IAGSC, and the E-ZPass system.
- G. Interpret and provide general guidance to the IAG, to the IAGSC, and to the IAG members on documents and other materials related to the operations of the IAG, to the IAGSC, and the E-ZPass System.

VI. Reports and Cost Estimates

The successful proposer shall also provide the following to the IAGSC and to the Executive Director of the IAGSC and to the Chair of the Legal Committee of the E-ZPass Group:

- A. Monthly reports, due on the 5th business day of each succeeding month, providing a brief update on the status of all active matters being handled. Such reports shall describe key activities performed in the prior month and key activities planned in the current month. The successful proposer shall not charge for the production of such reports.
- B. In response to a request for specific services hereunder and prior to the performance of any such services, the law firm shall submit in writing to the Executive Director of the IAGSC for approval an estimated not-to-exceed cost and staffing analysis of such services to the IAGSC. Approval of such cost and direction from the IAGSC Executive Director or Chair of the E-ZPass Group Executive Management Committee and Chair of the Legal Committee of the E-ZPass Group in writing to proceed shall effectuate the performance of services under the retainer agreement. After the point at which the law firm's expenditures for such services reach such approved estimated cost, the law firm shall not continue to render any such services unless it is specifically authorized in writing to so continue by the Executive Director of the IAGSC or Chair of the E-ZPass Group Executive Management Committee and Chair of the Legal Committee of the E-ZPass Group, and it shall submit to that person for approval a revised written estimated cost of such services. If no such authorization is issued, the performance of the specifically requested services under the retainer agreement shall be terminated without further obligation by either of the parties as to services not yet performed, but the law firm shall be compensated as hereinafter provided for services already completed. It is understood, however, that this limitation shall not be construed to entitle the law firm to an amount equal to the approved estimated cost.

Preparation of the cost estimate and staffing analysis mentioned in the first sentence of this paragraph shall not be compensable service hereunder.

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ATTACHMENT B

**REQUEST FOR PROPOSALS FOR THE PERFORMANCE OF PROFESSIONAL
LEGAL SERVICES FOR THE IAG SERVICE CORPORATION (RFP # 2020-07-001)**

AGREEMENT ON TERMS OF DISCUSSION

The IAGSC’s receipt or discussion of any information (including information contained in any proposal, vendor qualification, ideas, models, drawings, or other material communicated or exhibited by us or on our behalf) shall not impose any obligations whatsoever on the IAGSC, the IAG, any IAG or E-Z Pass member or any person acting on behalf of any of them, or entitle us to any compensation therefor (except to the extent specifically provided in such written agreement, if any, as may be entered into between the IAGSC and us). Any such information given to the IAGSC before, with or after this Agreement on Terms of Discussion (“Agreement”), either orally or in writing, is not given in confidence. Such information may be used, or disclosed to others, for any purpose at any time without obligation or compensation and without liability of any kind whatsoever. Any statement which is inconsistent with this Agreement, whether made as part of or in connection with this Agreement, shall be void and of no effect. This Agreement is not intended, however, to grant to the IAGSC rights to any matter, which is the subject of valid existing or potential letters patent. The foregoing applies to any information, whether or not given at the invitation of the IAGSC.

Notwithstanding the above, and without assuming any legal obligation, the IAGSC will employ reasonable efforts not to disclose to any competitor of the undersigned, information submitted which are trade secrets or is maintained for the regulation or supervision of commercial enterprise which, if disclosed, would cause injury to the competitive position of the enterprise, and which information is identified by the Proposer as proprietary.

FIRM NAME:

SIGNATURE OF AUTHORIZED
REPRESENTATIVE:

NAME OF AUTHORIZED
REPRESENTATIVE:

TITLE OF AUTHORIZED
REPRESENTATIVE:

DATE SIGNED:

CONTACT INFO OF AUTHORIZED
REPRESENTATIVE:

**ATTACHMENT C
COMPANY PROFILE**

**REQUEST FOR PROPOSALS FOR THE PERFORMANCE OF PROFESSIONAL
LEGAL SERVICES FOR THE IAG SERVICE CORPORATION (RFP # 2020-07-001)**

1. **Company Name:** _____
2. **Business Address:** _____

3. **Business Phone Number:** _____
4. **Company Website:** _____
5. **Federal Employer ID (EIN):** _____
6. **Date Firm was established:** _____
7. **Name of Affiliates/Subsidiaries:** _____
8. **Address of Affiliates/Subsidiaries:** _____
9. **EIN of Affiliates/Subsidiaries:** _____
10. **Name of Principal Officer of Firm:** _____
11. **Title of Principal Officer of Firm:** _____
12. **Contact Name:** _____
13. **Contact's Phone:** _____
14. **Contact's Email:** _____
15. **Is Firm certified as a Minority-owned, Woman-owned, Small Business Enterprise, Veteran-owned or Disability-owned?** **If yes, please identify which type: (*check all that apply*)**
MBE
WBE
SBE
VBE
DBE
16. **If MBE/WBE/SBE/VBE/DBE, please attach copy of certification**