



Questions – RFP for a Qualified Pool for Legal Services No. 18-002

**Real Estate & Land Use**

1. How many land acquisition and disposition matters has IMD engaged in annually for the last three (3) years? What is typical (i.e., buildings, developed parcels, undeveloped parcels, other)?

The IMD rarely acquires or sells fee simple interests in land. The IMD’s typical method of conveying possession to developers and other users is through long term ground leases. However, the IMD objectives of increasing density, uses, amenities, and partnering with developers and private sector users may require different and more innovative transaction structures.

2. How many commercial space and ground leases has IMD engaged in annually for the last three (3) years? What is typical (healthcare delivery, office, warehouse, other)? Are all such ground and commercial space leases in Chicago? If not, where?

The IMD has entered into two to three ground leases per year for the last three years. The uses range from mixed use (hotel, retail, etc.) to healthcare-related to more specific industry driven uses, such as the CAN TV headquarters. However, in each instance, the IMD board (the “Commission”) has evaluated and approved the uses as furthering and supporting the mission of the Illinois Medical District. All of the property that the IMD owns is located in Chicago.

**Debt Financing**

1. What are typical mortgage financing arrangements?

Mortgage financing arrangement vary based on the negotiated terms with the relevant bank. The IMD, for several recent transactions, has partnered with Signature Bank for the provision of debt financing for acquisitions and other transactions.

2. What are typical tax based and other economic development incentives structures?

Existing tax and other incentive programs applicable to property within the IMD include the following:

Class 8 (Cook County)

Tax Increment Financing (City of Chicago)

Illinois Enterprise Zone Program (State of Illinois)

Other incentives may be available for development projects within the IMD. Outside counsel will be tasked with identifying such programs and assessing their feasibility in the IMD.

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3. Are there any existing, outstanding debt instruments for which IMD is a borrower/mortgagor (debt finance, private loans, lines of credit, other)? Who are the lenders?

The IMD is a borrower on a series of taxable and tax-exempt bonds issued in 2006. 100% of the tax-exempt and approximately 49% of the taxable bonds were redeemed in May of 2017. The IMD is also a borrower under two mortgage loans from Signature Bank.

4. Is IMD a lender on any facilities? If so, who is the borrower?

No.

### **Corporate & Entity Formation**

1. Please provide some detail regarding the consultation and representation in connection with business entity formation matters and activity incidental to the general business of the IMD.

This element of the scope of work relates to the possibility of the IMD creating separate entities to serve discrete business purposes. These plans are very preliminary in nature, and would significantly be driven by organizational objectives and legal and policy-based parameters.

2. What types of entities are typically formed? For what purpose (e.g., single purpose entities to hold real estate, standalone entities for operating assets, affiliated entities to monitor costs and money transfers)?

No separate entities have been formed, as of yet.

3. What are examples of activity incidental to the general business of the IMD?

Examples:

Ownership and development of commercial real estate

Strategically serving operational and infrastructure needs of hospital and healthcare-focused landowners

Development of commercial neighborhood infrastructure

Development of comprehensive solutions to district-wide land, transportation, and related use challenges

### **General**

1. Can you provide an organizational chart for the legal department indicating to whom various functional leads in the legal department report and how they are organized?

The legal department of the IMD is comprised of the General Counsel and an administrative assistant. The General Counsel also works closely with attorneys in the Governor's Office and the Illinois Attorney General's Office, from time to time.

## Litigation

1. For general commercial litigation matters, can you provide more detail in terms of what type of litigation the IMD is typically involved in?

Any litigation involving the IMD typically arises from real estate transactions, uses of commercial real estate, and related issues.

2. The RFP states that litigation arises occasionally. How many active litigation matters has the IMD had in the last 3 years?

Three

3. Have the IMD's litigation matters generally been limited to jurisdictions in Illinois?

Yes

4. What % of the IMD's cases are settled pre-trial? What is the % of cases tried to verdict in the last 5 years?

Two matters are still ongoing, but one matter has proceeded to final judgment.

5. In general terms, are there any pending or threatened lawsuits that you know may present an issue for the IMD going forward?

No. Please note that this question has been answered in general terms, notwithstanding any interpretation based on statutes and other laws applicable to the IMD.

6. The RFP states that for litigation matters, the IMD's selection of outside counsel may be subject to the Special Assistant Attorneys General appointment process, which carries specific requirements. Can you provide more detail about that process and/or the requirements and how it could impact outside counsel selected to handle litigation matters?

Please see the attached Section 8.1.11 from the Attorney General's Rule of Professional Conduct. Please also note that the SPAAG appointment process requires a limit on the hourly rate charged by the selected outside firm.

## Labor & Employment

1. What is the average number of L&E related cases that IMD has had over the last 3 years?

Zero

2. What type of non-litigation related employment issues have you needed to address over the last 3 years for which you used outside counsel (e.g., mass layoffs, severance agreements, reclassifications, terminations, performance improvement plans, etc.)?

Severance agreements, terminations, and material provisions of personnel manuals.

3. Are there specific employment-related issues that you anticipate needing to address during the contract period?

A revision to the existing personnel manual and related policies and day to day issues that arise in the ordinary course of IMD business, such as hiring, terminations, severance agreements, and administration of leave and other policies.

## **Compliance**

1. Can you please provide further detail on the “various bodies of law applicable to local government and units of local government in Illinois” in the second bullet point under Scope of Work?

The Illinois Freedom of Information Act  
The Illinois Open Meetings Act  
The Illinois Constitution (and related case law)  
The United State Constitution (and related case law)  
The State Employees Ethics Act

Please note that this list may not be exhaustive and that other statutes may have specific application to the IMD.

## **Pricing/Fee Proposal Contents**

1. Can you please provide your total outside counsel legal spend for the last 2-3 years for each category of the Scope of Work in Section 2.2 of the RFP?

Outside counsel spend for regularly occurring/ordinary course of business legal issues has averaged approximately \$140, 000 during the last 2-3 years. However, this amount excludes legal expenses attributable to a few unique, isolated transactions and litigation that rarely occur.

2. What would you say are IMD’s biggest goals in regards to pricing on the RFP (e.g., rate discounts, rate certainty, price certainty)?

Cost control and certainty.

3. With respect to alternative fee arrangements, are these required for any particular type of work in the Scope of Work? Even if not required, are there any specific types of work in the Scope of Work where you would prefer an alternative fee option?

We invite proposers to suggest alternative fee arrangements for whatever type of work is conducive to such arrangements. The IMD believes that on many transactional matters, in particular, flat fee arrangements are both preferable and appropriate.

## **Administrative**

1. What is the anticipated duration of the engagement for the selected firms/attorneys?

Selected outside counsel firms will be included in a pool for at least one (1) year. However, the IMD reserves the right to increase the term of the pool at the time of selection or at any point during the selection process.

2. What are IMD's greatest legal and outside counsel concerns currently with respect to its ability to plan for and achieve its objectives?

This RFP was created to provide the IMD general counsel the ability to work with outside counsel on an as-needed basis without performing a competitive procurement when matters arise. One objective, accordingly, is to ensure that all anticipated needs for outside counsel services are covered through the scope of work. Additionally, the IMD desires to strategically continue to decrease the spend on outside counsel. This objective can be achieved through a combination of judicious use of outside counsel and competitive fees.

### 8.1.11 SPECIAL ASSISTANT ATTORNEYS GENERAL

The Attorney General may, at her discretion, appoint Special Assistant Attorneys General to represent the Office in certain matters. This may occur to resolve a conflict situation arising from the Attorney General's concurrent obligation to represent the State of Illinois and the People of the State of Illinois. It may also occur due to expertise that exists outside of the Office which is needed for a particular matter.

Special Assistant Attorneys General should be familiar with the Attorney General's Rules of Professional Conduct. Full-time Special Assistant Attorneys General assigned to a bureau of this Office are governed by these rules to the same extent as other Assistant Attorneys General. Special Assistant Attorneys General appointed by contract on a case-by-case basis are not bound by section 8.1.7. These Special Assistant Attorneys General must also comply with the following conflict of interest rules.

- (a) **Civil Cases.** In matters where the Special Assistant Attorney General or law firm is representing a client against the State of Illinois, the Special Assistant Attorney General must disclose the conflict in writing to the Chief of Staff or designee, who will examine the request and may grant a waiver of the conflict in that particular case. The Special Assistant Attorney General will be required to provide a written waiver from the private client. Waivers may be granted if the matter is not substantially similar to one to which a Special Assistant Attorney General or law firm is assigned. In appropriate cases, the Attorney General may grant a waiver subject to assurances that proper screening has taken place.
- (b) **Criminal Cases**
  - (1) The Office of the Attorney General has law enforcement responsibilities in the criminal justice field ranging from investigation and prosecution to appeal and collateral criminal proceedings. In addition, it is the duty of the Attorney General, upon request, to furnish opinions upon matters of criminal law to members of the executive branch and to the State's Attorneys. No Special Assistant Attorney General and no partner or associate of the law firm shall serve as a full or part-time Public Defender. No Special Assistant Attorney General, and no law firm with which such Special Assistant Attorney General is a partner or associate may represent or defend any person other than the State of Illinois in any criminal action filed in any court of this State, except as permitted by subparagraphs (2) and (3), following.
  - (2) The Attorney General or Chief of Staff may make specific exceptions to subparagraph (b) (1) of this section in unusual circumstances. Application for exceptions shall be made by the Special Assistant Attorney General in writing to the Attorney General. The writing shall state that the applicant believes that representation by applicant or by a member or associate of the law firm of a particular person or of particular persons charged with a misdemeanor or felony (i) will not violate any provision of these rules; (ii) that the applicant has explained and disclosed the possible conflict of interest by reason of the employment by the Attorney General and obtained the client's written waiver thereof; and (iii) that the circumstances justify the exception, together with the grounds for such belief. Action taken by the Attorney General on such application shall be promptly given in writing to the applicant. Any such application must be accompanied by an applicant's written disclosure to the client of a possible conflict of interest and by a photocopy of the client's written acknowledgment of receipt of the disclosure and waiver of the conflict of interest.
  - (3) A Special Assistant Attorney General may represent or defend any person in a criminal action in any court of the State in which the charged offense is (i) a traffic violation, or a violation of a municipal ordinance which, under the applicable law, is a misdemeanor and (ii) is punishable only by a fine. In every such case, the written disclosures by the attorney and the written waiver by the client, as required by subparagraph (2) of this section, shall be first given before undertaking any such representation. No exception need be sought for or obtained in any such case, provided that the forms of disclosure and of waiver each comply substantially with the form therefore currently approved by the Attorney General.
  - (4) In view of the fact that the Attorney General writes, reviews, or approves all briefs filed on behalf of the People of the State of Illinois on appeal to the Illinois Supreme Court, no Special Assistant Attorney General may represent a defendant in a criminal action on an appeal to the Illinois Supreme Court.

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