

REQUEST FOR PROPOSAL

Issued Date: July 1, 2009

RFP Number: 102-80

Contracting Agency: Isothermal Community College
PO Box 804
Spindale, NC 28160

Request for Proposal For: Legal Consulting Services

Proposal Opening (Due) Date: August 10, 2009

Proposals for providing the described services, subject to the general terms and conditions incorporated in this proposal, will be received until 2:30 p.m., August 10, 2009, and then opened. Proposal opening will be held in the Board Room of the Administrative Building at Isothermal Community College, 286 ICC Loop Road, Spindale, NC 28160.

There will be no pre-bid conference for this request unless deemed necessary by the College. Any questions related to this RFP should be directed to Cindy Moore, Human Resources Manager, no later than noon on July 20, 2009. Questions can be mailed or e-mailed to the Human Resources Office at the contacts below:

Mailing Address: PO Box 804, Spindale, NC 28160
Email Address: cinmoore@isothermal.edu

Listed below are the proper addresses for returning your proposal response. Isothermal Community College will not be held responsible for proposals that are returned late, incomplete or otherwise non-responsive.

Mail to Address:

Cindy Moore, Human Resources Manager
Isothermal Community College
PO Box 804
Spindale, NC 28160

Physical Delivery Address:

Cindy Moore, Human Resources Manager
Isothermal Community College
286 ICC Loop Road
Administrative Building, 1st Floor
Human Resources Office
Spindale, NC 28160

Response to questions will be posted on the North Carolina Internet Purchasing System (IPS) at <http://www.ips.state.nc.us/ips> under the original bid number by July 24, 2009.

Note: The following information must be indicated on the bottom, left corner of your envelope in the order listed:

1. RFP for Legal Consulting Services
2. Name of Offeror

INTRODUCTION

Isothermal Community College desires to contract with a law firm experienced in community college and/or higher education law as it relates to employment; requested services include, but not limited to, legal consultation, advising, compliance review and related training.

BACKGROUND

Isothermal Community College is a comprehensive, two-year public institution serving Rutherford and Polk counties in the western foothills of North Carolina. The College has recognized the need to codify existing personnel policies and to address all areas of personnel. The intent of this RFP is to retain a law firm that is experienced in community college and/or higher education law as it relates to employment, provide consultation and training services in regards to employment matters.

SCOPE OF WORK

The Offeror shall provide the following services:

1. Review College's existing personnel policies as required by 23 NCAC 02C .0210 and other personnel policies and procedures including but not limited to EEOC, FMLA, ADA, and Workers Compensation.
2. Make recommendations on existing personnel policies and identify any omissions.
3. Provide guidance to the College in the revisions and preparation of employee policies to ensure compliance with state and federal law.
4. Provide training to administration, human resources and/or supervisors in areas of employment practices as identified by the College.
5. Counsel college on, but not limited to, FLSA, ADA, FMLA, employer and employee rights, and Workers Compensation practices to ensure compliance with state and federal law.
6. Review and make recommendations on employment contracts.

THE PROCUREMENT PROCESS

The following is a general description of the process by which a firm will be selected to provide services.

1. Request for Proposal (RFP) is posted to the IPS system.
2. If deemed necessary, a pre-bid conference and/or deadline for written request is set. (See cover sheet of this RFP for details; page 1.)
3. Proposals in one original and two (2) copies will be received from each offeror in a sealed envelope or package. Each original shall be signed and dated by an official authorized to bind the firm. Unsigned proposals will not be considered.
4. All proposals must be received by the issuing agency no later than the date and time specified on the cover sheet of this RFP.
5. At that date and time the package containing the proposals from each responding firm may be opened publicly and the name of the offeror and cost(s) offered will be announced. Interested parties are cautioned that these costs and their components are subject to further evaluation for completeness and correctness and therefore may not be an indicator of an offeror's pricing position.
6. At their option, the evaluators may request oral presentations or discussion with any or all offerors for the purpose of clarification or to amplify the materials presented in any part of the proposal. However, offerors are cautioned that the evaluators are not required to request clarification; therefore, all proposals should be complete and reflect the most favorable terms available from the offeror.
7. Proposals will be evaluated according to completeness, content, experience with similar projects, ability of the offeror and its staff, past performance with NC Community Colleges and/or higher education institutes in relation to employment issues, and cost. Award of contract to one offeror does not mean that other proposals lack merit but that, all factors considered, the selected proposal was deemed most advantageous to the College.

In addition to any other evaluation criteria identified in the College's solicitation document, the College shall, for purposes of evaluating proposed or actual contract performance outside of the United States, consider the following factors to ensure that any award will be in the best interest of the College:

- o Experience with employment law as related to NC Community College's and/or higher education
 - o Ability to understand and interpret the laws in relation to employment law relating to NC Community College's and/or higher education employment issues
 - o License to practice law in the State of North Carolina
 - o Ability to understand the College's business requirements and internal operational culture
 - o Process capability across multiple jurisdictions
 - o Protection of the College's information and intellectual property
 - o Risk factors such as the security of the College's information technology
 - o Contract enforcement jurisdictional issues
 - o Ability to complete tasks within specified time frame
 - o Total cost to the College
8. Offerors are cautioned that this is a request for offers, not a request to contract, and the College reserves the unqualified right to reject any and all offers when rejection is deemed to be in the best interest of the College.

PROPOSAL REQUIREMENTS

The response to this RFP shall consist of the following requirements:

Corporate Background and Experience
Project Staffing and Organization
Project Timeline
Cost Proposal

1. Background and Experience

This section shall include background information on the organization and should give details of experience with similar projects. A list of at least three (3) references (including contact persons and telephone numbers) for which similar work has been performed shall be included.

2. Project Organization

This section must include the proposed staffing and organization of personnel to be assigned to this project.

The offeror shall provide information as to the qualifications and experience of all executive, managerial, legal, and professional personnel to be assigned to this project.

3. Project Timeline

This section shall include, in narrative or outline, the offeror's approach to accomplishing the tasks outlined in the Scope of Work section (page 2) of this RFP; for which tasks should be completed by June 30, 2010.

4. Cost Proposal

The Cost Proposal shall be submitted and contain the following:

Projected cost of all tasks
Fee Schedule Including but not limited to:
Retainer Fee (Description of what services are included)
Hourly Consulting Fee(s)
Hourly Training Fee(s)
Travel and Subsistence Fee(s)
Copying Fee(s)
Other Potential Fee(s)

EXECUTION OF PROPOSAL

By submitting this proposal, the potential firm certifies the following:

This proposal is signed by an authorized representative of the firm.

Insurance certificates can be obtained by the firm as required within 10 calendar days after notice of award.

The cost of travel associated with performing the services described herein have been determined and included in the proposed cost.

All cost estimates, direct and indirect, have been determined and included in the proposed cost.

The potential firm has read and understands the conditions set forth in the RFP.

Therefore, in compliance with the Request for Proposals, and subject to all conditions herein, the undersigned offers and agrees to furnish the subject services as indicated in its proposal.

Offeror: _____

Address: _____

City, State, Zip: _____

Telephone Number: _____ Fax: _____

E-Mail: _____

Principal Place of Business, if different from above (See General Information on Submitting Proposal, Page 7, Item 18.):

Will any of the work under this contract be performed outside of the United States: ____ Yes ____ No
(If yes, describe in technical proposal.)

By: _____ Title: _____ Date: _____
(Signature)

(Printed Name)

Acceptance of Proposal
Isothermal Community College

By: _____ Title: _____ Date: _____

**THIS PAGE MUST BE SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE FIRM
SUBMITTING THE RFP AND INCLUDED IN YOUR PROPOSAL.**

GENERAL INFORMATION ON SUBMITTING PROPOSALS

1. **EXCEPTIONS:** All proposals are subject to the terms and conditions outlined herein. All responses shall be controlled by such terms and conditions and the submission of other terms and conditions, price lists, catalogs, and/or other documents as part of an offeror's response will be waived and have no effect either on this Request for Proposals or on any contract that may be awarded resulting from this solicitation. Offeror specifically agrees to the conditions set forth in the above paragraph by signature to the proposal.
2. **CERTIFICATION:** By executing the proposal, the signer certifies that this proposal is submitted competitively and without collusion (G.S. 143-54), that none of our officers, directors, or owners of an unincorporated business entity has been convicted of any violations of Chapter 78A of the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (G.S. 143-59.2), and that we are not an ineligible vendor as set forth in G.S. 143-59.1. False certification is a Class I felony.
3. **ORAL EXPLANATIONS:** The College shall not be bound by oral explanations or instructions given at any time during the competitive process or after award.
4. **REFERENCE TO OTHER DATA:** Only information which is received in response to this RFP will be evaluated; reference to information previously submitted shall not be evaluated.
5. **ELABORATE PROPOSALS:** Elaborate proposals in the form of brochures or other presentations beyond that necessary to present a complete and effective proposal are not desired.

In an effort to support the sustainability efforts of the College we solicit your cooperation in this effort.

It is desirable that all responses meet the following requirements:

- All copies are printed **double sided**.
 - All submittals and copies are printed on **recycled paper with a minimum post-consumer content of 30%** and indicate this information accordingly on the response.
 - Unless absolutely necessary, all proposals and copies should **minimize or eliminate use of non-recyclable or non re-usable materials** such as plastic report covers, plastic dividers, vinyl sleeves, and GBC binding. Three-ringed binders, glued materials, paper clips, and staples are acceptable.
 - Materials should be submitted in a format which allows for **easy removal and recycling** of paper materials.
6. **COST FOR PROPOSAL PREPARATION:** Any costs incurred by offerors in preparing or submitting offers are the offerors' sole responsibility; the College will not reimburse any offeror for any costs incurred prior to award.
 7. **TIME FOR ACCEPTANCE:** Unless otherwise indicated under Execution of Proposal section (page 5) of this document, the offer shall be valid for forty-five (45) days from the date of proposal opening. Preference may be given to offers allowing not less than forty-five (45) days for consideration and acceptance.
 8. **TITLES:** Titles and headings in this RFP and any subsequent contract are for convenience only and shall have no binding force or effect.
 9. **CONFIDENTIALITY OF PROPOSALS:** In submitting its proposal the offeror agrees not to discuss or otherwise reveal the contents of the proposal to any source outside of the using or College, government or private, until after the award of the contract. Offerors not in compliance with this provision may be disqualified, at the option of the College, from contract award. Only discussions authorized by the College are exempt from this provision.

10. **RIGHT TO SUBMITTED MATERIAL:** All responses, inquiries, or correspondence relating to or in reference to the RFP, and all other reports, charts, displays, schedules, exhibits, and other documentation submitted by the offerors shall become the property of the College when received.
11. **OFFEROR'S REPRESENTATIVE:** Each offeror shall submit with its proposal the name, address, and telephone number of the person(s) with authority to bind the firm and answer questions or provide clarification concerning the firm's proposal.
12. **SUBCONTRACTING:** Offerors may propose to subcontract portions of the work provided that their proposals clearly indicate what work they plan to subcontract and to whom and that all information required about the prime contractor is also included for each proposed subcontractor.
13. **PROPRIETARY INFORMATION:** Trade secrets or similar proprietary data which the offeror does not wish disclosed to other than personnel involved in the evaluation or contract administration will be kept confidential to the extent permitted by NCAC T01:05B.1501 and G.S. 132-1.3 if identified as follows: Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL". Any section of the proposal which is to remain confidential shall also be so marked in boldface on the title page of that section. Cost information may not be deemed confidential. In spite of what is labeled as confidential, the determination as to whether or not it is shall be determined by North Carolina law.
14. **HISTORICALLY UNDERUTILIZED BUSINESSES:** Pursuant to General Statute 143-48 and Executive Order #150, the College invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled.
15. **PROTEST PROCEDURES:** When an offeror wants to protest a contract awarded by the Secretary of Administration or by an agency over \$25,000 resulting from this solicitation, they must submit a written request to the State Purchasing Officer at Purchase and Contract, 1305 Mail Service Center, Raleigh, NC 27699-1305. This request must be received in the Division of Purchase and Contract within thirty (30) consecutive calendar days from the date of the contract award. When an offeror wants to protest a contract awarded by an agency or university resulting from this solicitation that is over \$10,000 but less than \$25,000 for any agency, or any contract awarded by a university, they must submit a written request to the issuing procurement officer at the address of the issuing agency. This request must be received in that office within thirty (30) consecutive calendar days from the date of the contract award. Protest letters must contain specific reasons and any supporting documentation for the protest. Note: Contract award notices are sent only to those actually awarded contracts, and not to every person or firm responding to this solicitation. Contract status and Award notices are posted on the Internet at <http://www.doa.state.nc.us/pandc/>. All protests will be handled pursuant to the North Carolina Administrative Code, Title 1, Department of Administration, Chapter 5, Purchase and Contract, Section 5B.1519. (See Protest Information at <http://www.doa.state.nc.us/PandC/protests.pdf> for more information.)
16. **TABULATIONS:** The Division has implemented an Interactive Purchasing System (IPS) that allows the public to retrieve bid tabulations electronically from our Internet web site: <http://www.doa.state.nc.us/pandc/>. Click on the IPS BIDS icon, click on Search for Bid, enter the RFP number, and then search. Tabulations will normally be available at this web site not later than one working day after opening. Lengthy tabulations may not be available on the Internet, and requests for these verbally or in writing cannot be honored.
17. **VENDOR REGISTRATION AND SOLICITATION NOTIFICATION SYSTEM:** Vendor Link NC allows vendors to electronically register free with the State to receive electronic notification of current procurement opportunities for goods and services available on the Interactive Purchasing System. Online registration and other purchasing information are available on our Internet web site: <http://www.doa.state.nc.us/pandc/>.

18. **RECIPROCAL PREFERENCE:** G.S. 143-59 establishes a reciprocal preference law to discourage other states from applying in-state preferences against North Carolina's resident offerors. The "Principal Place of Business" is defined as the principal place from which the trade or business of the offeror is directed or managed.

NORTH CAROLINA GENERAL CONTRACT TERMS AND CONDITIONS

1. **GOVERNING LAW:** This contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina.
2. **SITUS:** The place of this contract, its situs and forum, shall be North Carolina, where all matters, whether sounding in contract or tort, relating to its validity, construction, interpretation and enforcement shall be determined
3. **INDEPENDENT CONTRACTOR:** The Contractor shall be considered to be an independent contractor and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Contractor represents that it has, or will secure at its own expense, all personnel required in performing the services under this agreement. Such employees shall not be employees of, or have any individual contractual relationship with the College.
4. **KEY PERSONNEL:** The Contractor shall not substitute key personnel assigned to the performance of this contract without prior written approval by the College's Contract Administrator. The individuals designated as key personnel for purposes of this contract are those specified in the Contractor's proposal.
5. **SUBCONTRACTING:** Work proposed to be performed under this contract by the Contractor or its employees shall not be subcontracted without prior written approval of the College's Contract Administrator. Acceptance of an offeror's proposal shall include any subcontractor(s) specified therein.
6. **PERFORMANCE AND DEFAULT:** If, through any cause, the Contractor shall fail to fulfill in timely and proper manner the obligations under this agreement, the College shall thereupon have the right to terminate this contract by giving written notice to the Contractor and specifying the effective date thereof. In that event, all finished or unfinished deliverable items under this contract prepared by the Contractor shall, at the option of the College, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials. Notwithstanding, the Contractor shall not be relieved of liability to the Agency for damages sustained by the College by virtue of any breach of this agreement, and the College may withhold any payment due the Contractor for the purpose of setoff until such time as the exact amount of damages due the College from such breach can be determined.

In case of default by the Contractor, the College may procure the services from other sources and hold the Contractor responsible for any excess cost occasioned thereby. The College reserves the right to require a performance bond or other acceptable alternative performance guarantees from successful offeror without expense to the College.

In addition, in the event of default by the Contractor under this contract, the College may immediately cease doing business with the Contractor, immediately terminate for cause all existing contracts the College has with the Contractor, and de-bar the Contractor from doing future business with the College.

Upon the Contractor filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the Contractor, the College may immediately terminate, for cause, this contract and all other existing contracts the Contractor has with the College, and de-bar the Contractor from doing future business with the College.

Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear

explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

7. **TERMINATION:** The College may terminate this agreement at any time by 30 days notice in writing from the College to the Contractor. In that event, all finished or unfinished deliverable items prepared by the Contractor under this contract shall, at the option of the College, become its property. If the contract is terminated by the College as provided herein, the Contractor shall be paid for services satisfactorily completed, less payment or compensation previously made.
8. **PAYMENT TERMS:** Payment terms are Net not later than 30 days after receipt of correct invoice(s) or acceptance of services, whichever is later, or in accordance with any special payment schedule identified in this RFP. The using College is responsible for all payments to the contractor under the contract. Payment by some agencies may be made by procurement card and it shall be accepted by the contractor for payment if the contractor accepts that card (Visa, Mastercard, etc.) from other customers. If payment is made by procurement card, then payment may be processed immediately by the contractor.
9. **AVAILABILITY OF FUNDS:** Any and all payments to the Contractor are dependent upon and subject to the availability of funds to the Agency for the purpose set forth in this agreement.
10. **CONFIDENTIALITY:** Any information, data, instruments, documents, studies or reports given to or prepared or assembled by the Contractor under this agreement shall be kept as confidential and not divulged or made available to any individual or organization without the prior written approval of the College.
11. **CARE OF PROPERTY:** The Contractor agrees that it shall be responsible for the proper custody and care of any property furnished it for use in connection with the performance of this contract or purchased by it for this contract and will reimburse the College for loss of damage of such property.
12. **COPYRIGHT:** No deliverable items produced in whole or in part under this agreement shall be the subject of an application for copyright by or on behalf of the Contractor.
13. **ACCESS TO PERSONS AND RECORDS:** The State Auditor shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7. The Contractor shall retain all records for a period of three years following completion of the contract.
14. **ASSIGNMENT:** No assignment of the Contractor's obligations nor the Contractor's right to receive payment hereunder shall be permitted. However, upon written request approved by the issuing purchasing authority, the College may:
 - a. Forward the contractor's payment check(s) directly to any person or entity designated by the Contractor, or
 - b. Include any person or entity designated by Contractor as a joint payee on the Contractor's payment check(s).In no event shall such approval and action obligate the College to anyone other than the Contractor and the Contractor shall remain responsible for fulfillment of all contract obligations.
15. **COMPLIANCE WITH LAWS:** The Contractor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.
16. **AFFIRMATIVE ACTION:** The Contractor shall take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of people with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin, or disability.

17. **INSURANCE:** During the term of the contract, the contractor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the contract. As a minimum, the contractor shall provide and maintain the following coverage and limits:
- a. **Worker's Compensation** - The contractor shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$150,000.00, covering all of Contractor's employees who are engaged in any work under the contract. If any work is subcontracted, the contractor shall require the subcontractor to provide the same coverage for any of its employees engaged in any work under the contract.
 - b. **Commercial General Liability** - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$500,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability).
 - c. **Automobile** - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the contract. The minimum combined single limit shall be \$150,000.00 bodily injury and property damage; \$150,000.00 uninsured/under insured motorist; and \$1,000.00 medical payment.

Providing and maintaining adequate insurance coverage is a material obligation of the contractor and is of the essence of this contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The contractor shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this contract. The limits of coverage under each insurance policy maintained by the contractor shall not be interpreted as limiting the contractor's liability and obligations under the contract.

18. **ADVERTISING:** The offeror shall not use the award of a contract as part of any news release or commercial advertising.
19. **ENTIRE AGREEMENT:** This contract and any documents incorporated specifically by reference represent the entire agreement between the parties and supersede all prior oral or written statements or agreements. This Request for Proposals, any addenda thereto, and the offeror's proposal are incorporated herein by reference as though set forth verbatim.
- All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.
20. **AMENDMENTS:** This contract may be amended only by written amendments duly executed by the Agency and the Contractor. The NC Division of Purchase and Contract shall give prior approval to any amendment to a contract awarded through that office.
21. **TAXES:** G.S. 143-59.1 bars the Secretary of Administration from entering into contracts with vendors if the vendor or its affiliates meet one of the conditions of G. S. 105-164.8(b) and refuse to collect use tax on sales of tangible personal property to purchasers in North Carolina. Conditions under G. S. 105-164.8(b) include: (1) Maintenance of a retail establishment or office, (2) Presence of representatives in the State that solicit sales or transact business on behalf of the vendor and (3) Systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. By execution of the proposal document the vendor certifies that it and all of its affiliates, (if it has affiliates), collect(s) the appropriate taxes.
22. **YEAR 2000 COMPLIANCE/WARRANTY:** Vendor shall ensure the product(s) and service(s) furnished pursuant to this agreement ("product" shall include, without limitation, any piece of equipment, hardware, firmware, middleware, custom or commercial software, or internal components,

subroutines, and interfaces therein) which perform any date and/or time data recognition function, calculation, or sequencing, will support a four digit year format, and will provide accurate date/time data and leap year calculations on and after December 31, 1999, at the same level of functionality for which originally acquired without additional cost to the user. This warranty shall survive termination or expiration of the agreement.

23. **GENERAL INDEMNITY:** The contractor shall hold and save the College, its officers, agents, and employees harmless from liability of any kind, including all claims and losses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the contractor in the performance of this contract and that are attributable to the negligence or intentionally tortious acts of the contractor provided that the contractor is notified in writing within 30 days that the College has knowledge of such claims. The contractor represents and warrants that it shall make no claim of any kind or nature against the College's agents who are involved in the delivery or processing of contractor goods to the State. The representation and warranty in the preceding sentence shall survive the termination or expiration of this contract.
24. **OUTSOURCING:** Any vendor or subcontractor providing call or contact center services to the State of North Carolina shall disclose to inbound callers the location from which the call or contact center services are being provided.

If, after award of a contract, the contractor wishes to outsource any portion of the work to a location outside the United States, prior written approval must be obtained from the College.

Vendor must give notice to the using College of any relocation of the vendor, employees of the vendor, subcontractors of the vendor, or other persons performing services under a state contract outside of the United States.