

**BOSTON RETIREMENT SYSTEM**

**REQUEST FOR PROPOSALS  
FOR LEGAL SERVICES**

**PROPOSALS DUE: AUGUST 12, 2022**

**ISSUE DATE: JULY 1, 2022**



**Timothy J. Smyth, Esquire  
Executive Officer**

## **I. BACKGROUND INFORMATION**

The Boston Retirement System (hereinafter “BRS”) seeks procurement for outside legal services. BRS is subject to the oversight and regulations of the Public Employee Retirement Administration Commission (“PERAC”). BRS is governed by a five member Board and serves employees and beneficiaries of employees of the City of Boston, Boston Redevelopment Authority d/b/a Boston Planning & Development Agency, Boston Public Health Commission, Boston Housing Authority, Boston Water & Sewer Commission, as well as some Suffolk County Sheriff’s Department retirees.

### **Term of contract**

It is expected that the law firm and/or attorney will be retained for a period not to exceed seven (7) years subject to the sole discretion of BRS for a lesser period of time.

## **II. SCOPE OF SERVICES**

BRS is seeking a qualified attorney and/or law firm with experience working with public pension systems in Massachusetts. The qualified attorney and/or law firm shall report directly to BRS’s Executive Officer and General Counsel. The required services, include, but are not limited to, the following:

1. Provide legal counsel regarding pension matters on an as needed basis;
2. Attend monthly meetings of the Retirement Board and Board sub-Committees, providing legal services and advice, upon request;
3. Represent BRS in Massachusetts courts and administrative agencies;
4. Work with BRS’ staff and outside consultants, as directed;
5. Provide information and interpretation of new and pending legislation on any and all public pension legal issues and submit memorandum to BRS regarding the impact of such legislation on the system and members at the request of BRS; and,
6. Provide information and interpretation of PERAC memoranda, Division of Administrative Law Appeals (DALA), Contributory

Retirement Appeal Board (CRAB) and court decisions applicable to public pension systems and/or related issues and submit memorandum to the Board regarding these matters.

### **III. CERTIFICATION & COMPLIANCE**

No agreement may be awarded unless all forms required by this RFP are timely completed. Further, no agreement may be awarded unless all of the requirements are met as set forth in M.G.L. Chapter 32, Section 23B. We note that all Proposers must execute PERAC's Vendor Disclosure Form, *see* Appendix A, as well as the Certification of Compliance with Massachusetts Tax Laws pursuant to M.G.L. Ch. 62C, §49A, *see* Appendix B.

### **IV. FUNDING DEPENDENT**

Proposers are advised that the contract shall be canceled if funds are not appropriated or otherwise made available to support continuation of performance of the services sought in this RFP in any given fiscal year.

### **V. INSTRUCTIONS TO PROPOSERS**

All correspondence and questions relating to this RFP must be submitted in writing to Natacha Thomas, Esquire at [natacha.thomas@boston.gov](mailto:natacha.thomas@boston.gov). All questions relative to this RFP must be submitted to Attorney Thomas on or before 5:00 p.m., July 29, 2022. No questions or comments will be accepted after the deadline.

Responses to this RFP must be submitted on or before 5:00 p.m., August 12, 2022. All proposals must be submitted to:

**Natacha Thomas, Esquire  
General Counsel  
Boston Retirement System  
Boston City Hall, Room 816  
Boston, MA 02201  
Email: [natacha.thomas@boston.gov](mailto:natacha.thomas@boston.gov).**

Proposers shall submit one (1) paper original and six (6) paper copies with any requested exhibits to the above mailing address, as well as email one (1) pdf copy addressed to Attorney Thomas at [natacha.thomas@boston.gov](mailto:natacha.thomas@boston.gov). No proposals shall be accepted after the closing date and time.

BRS may, in its sole discretion, determine that a proposal has failed to meet all of the criteria required by this RFP and may disqualify that proposal. The determination as to whether or not to make an award as a result of this RFP shall be at the sole and absolute discretion of Boston Retirement Board.

BRS reserves the right to cancel this RFP, or to reject any and all proposals, or any portion of any proposal, received in response to this RFP, upon its determination that such cancellation or rejection is in the best interests of BRS. Proposers acknowledge that BRS shall not be liable for any fees and/or costs incurred in the preparation of their proposal or otherwise associated with the proposal.

**VI. TIME LINE**

The Board expects to award a contract on or about **September 21, 2022**. The Board may cancel this RFP, or reject in whole or in part any and all submissions, if the Board determines that cancellation or rejection serves the best interests of the System. The anticipated time-line for this procurement is listed below, although the Board reserves the right to change any aspect of this schedule at any time:

Issuance of RFP:.....	July 1, 2022
Deadline for Questions by Proposers:.....	July 29, 2022
Deadline for Responses to Questions:.....	August 5, 2022
Deadline for Submission of Proposals:.....	August 12, 2022
Board Vote to Authorize Agreement:.....	Sept. 21, 2022

**VII. DECISION TO AWARD**

Any agreement pursuant to this RFP shall be for a period of no more than seven (7) years. The Board reserves its right to terminate the contract for any reason whatsoever on thirty (30) days written notice and without cause.

The fee and non-fee proposals submitted in response to this RFP will be considered separately, opened separately and evaluated separately. The Board will evaluate the non-fee proposals prior to opening the fee proposal. All information will be released publicly upon completion of the selection process.

If the Board requires clarification or additional information, the request will be communicated to the designated contact of the Proposer by Attorney Thomas. The Board reserves the right to interview one or more Proposers to seek clarification during the evaluation process.

The most advantageous proposal may not be the lowest cost proposal and it may not have the highest composite ranking. The recommended proposal will be based on the Retirement Administrator's evaluation of the costs and benefits associated with each proposal and will be that which provides the best combination of quality and price for the Boston Retirement System.

No formal contract for services under this RFP shall be executed until such decision to award and a written contract is authorized by the full Board. All contracts shall be in writing and the Board shall make no payment for services rendered prior to the execution of the contract for services.

#### **VIII. QUALIFICATIONS & EXPERIENCE TO BE ADDRESSED IN PROPOSAL**

- A. The proposing law firm and/or attorney must provide legal services to public pension systems and the primary or lead attorney, who will have primary responsibility for providing legal services to BRS must have at least five (5) years' experience in serving and representing public pension systems before Massachusetts courts and administrative agencies.
- B. The proposing law firm and/or attorney must have provided legal services (in some capacity) to at least three (3) Massachusetts Chapter 32 public pension systems.
- C. The proposing law firm and/or attorney must have coverage no less than \$1,000,000 in legal malpractice insurance. The System must be named as an additional insured to said policy.
- D. The proposing law firm and/or attorney must be prepared to provide legal services to BRS no later than August 12, 2022.
- E. All attorneys in the law firm working with BRS must be licensed to practice law in the Commonwealth of Massachusetts and must be in good standing with the Massachusetts Board of Bar Overseers without exception.

#### **IX. EVALUATION CRITERIA**

The rating evaluations shall be established as (1) "highly advantageous," (2) "advantageous," (3) "not advantageous," or (4) "unacceptable." The only exception would be the privacy section where the rating will be either

“acceptable” or “unacceptable.” In order to avoid an “unacceptable” rating for failure to address any item of the RFP, if any item is not applicable to your firm you should so state in your response and provide an explanation.

Each proposal shall be rated in the following manner and on the following criteria:

1. *Designated Contact.* Provide a statement setting forth the name of a contact person and title, along with accompanying business address, direct email, direct telephone number and cellular telephone number in order to allow for follow-up contact during non-business hours.

**Highly Advantageous:** The Proposer is able to provide all of the information requested.

**Advantageous:** The Proposer is able to provide some, but not all of the information requested.

**Not Advantageous:** The Proposer is unwilling to provide some of the information requested.

**Unacceptable:** The Proposer is unwilling to provide any of the information requested.

2. *Brief History of Firm.* Provide a brief history of your firm, including the year the firm began providing public pension legal counsel. Give specific details with regard to the nature of services provided, with special attention to public sector experience and specific experience with MGL Chapter 32 and 840 CMR. Describe the organizational chart.

**Highly Advantageous:** The Proposer has five (5) or more years of experience in providing legal services to Massachusetts public pension funds.

**Advantageous:** The Proposer has less than five (5), but more than (three) 3 years of experience in providing legal services to Massachusetts public pension funds.

**Not Advantageous:** The Proposer has three (3) or less years of experience in providing legal services to Massachusetts public pension funds.

**Unacceptable:** The Proposer does not have any experience in providing legal services to Massachusetts public pension funds.

3. Reporting. Describe the reporting process that you would use to update BRS on any pending matters that would be assigned to the Proposer. Proposer should provide a sample of a litigation update report that it would utilize. Proposer should demonstrate the level of the ability of the firm and/or individuals to provide information updates and clarification of new and pending legislation and DALA, CRAB and court decisions relating to pension issues. Depth and completeness of such reports and updates is paramount.

**Highly Advantageous:** The Proposer tracks every pending matter assigned and updates BRS on significant activity monthly or earlier if merits. The Proposer provides carbon copies of all documents filed in Court or with an administrative agency.

**Advantageous:** The Proposer tracks every pending matter in which there is a notice of appearance and updates BRS on significant activity quarterly.

**Not Advantageous:** The Proposer tracks every pending matter in which there is a notice of appearance and updates BRS on significant activity on demand only.

**Unacceptable:** The Proposer tracks every pending matter in which there is a notice of appearance, but does not update BRS on significant activity.

4. Legal Research Resources. Scope of legal research and resources available to obtain court decisions, Division of Administrative Law Appeals (DALA) and Contributory Retirement Appeal Board (CRAB) decisions.

**Highly Advantageous:** The Proposer has its own subscription to an electronic database that includes Massachusetts appeals court decisions

(such as, Westlaw and Lexis Nexus), as well as DALA and CRAB decisions (such as, Sociallaw.com).

**Advantageous:** The Proposer has access to an electronic database that includes either Massachusetts appeals court decisions (such as, Westlaw and Lexis Nexus) or DALA and CRAB decisions (such as, Sociallaw.com).

**Not Advantageous:** The Proposer has access to a law library, but no electronic database.

**Unacceptable:** The Proposer has no access to legal research tools.

5. *Attorney Experience.* Identify and describe the qualifications and experience of attorneys and professional personnel who would be assigned to staff Board work, as well as the current and planned role each individual would play, relative to such assignment. Also provide a short biography of such attorneys including their title, function, number of years with your firm, years of experience, and educational background. Also identify the individual that would be the lead attorney for Board matters.

**Highly Advantageous:** The Proposer employs at least 1 attorney with at least 15 years of experience in Massachusetts public pension law.

**Advantageous:** The Proposer employs at least 1 attorney with 7 to 14 years of experience in Massachusetts public pension law.

**Not Advantageous:** The Proposer only employs one attorney with at 1 to 6 years of experience in Massachusetts public pension law.

**Unacceptable:** The Proposer only employs one attorney with no experience in Massachusetts public pension law.

6. *Board Meetings.* A commitment to attend regular and special meetings of the Retirement Board, if necessary, to discuss litigation matters.

**Highly Advantageous:** The Proposer agrees to attend any Retirement Board meeting with at least two weeks' notice.

**Advantageous:** The Proposer agrees to attend any Retirement Board meeting with at least four weeks' notice.

**Not Advantageous:** The Proposer agrees to attend any Retirement Board meetings sporadically.

**Unacceptable:** The Proposer does not agree to attend any Retirement Board meetings.

7. Other Relevant Litigation Experience. Summarize other relevant experience and training that demonstrate your firm's ability to advise or represent the Board in all or any number of the areas or issues listed herein. This may include non-litigation legal experience, significant litigation experience, particularly involving trial practice, writs and law and motion, appellate practice, or representation of government agencies, academic experience, professional activities, etc.

**Highly Advantageous:** The Proposer has participated as lead counsel in at least five jury trials in a Massachusetts trial court and drafted at least one appellate brief for the Supreme Judicial Court or Massachusetts Appeals Court.

**Advantageous:** The Proposer has participated as lead counsel in at least five jury trials in a Massachusetts trial court or drafted at least one appellate brief for the Supreme Judicial Court or Massachusetts Appeals Court.

**Not Advantageous:** The Proposer has participated as lead counsel in less than five jury trials in a Massachusetts trial court or drafted at least one appellate brief for the Supreme Judicial Court or Massachusetts Appeals Court.

**Unacceptable:** The Proposer has never participated as lead counsel in a jury trials in a Massachusetts trial court or drafted at least one appellate brief for the Supreme Judicial Court or Massachusetts Appeals Court.

8. Results. Provide a representative listing of Massachusetts public pension matters in which your firm achieved favorable outcomes within the past five years. Include a brief description of the type of work your firm performed on behalf of your client. Identify key issues of the case or cases and degree of success

*achieved. Indicate any of such cases handled by persons who may be designated as lead attorney for BRS cases.*

**Highly Advantageous:** The Proposer has handled more than five Massachusetts public pension matters in the past five years and at least one of the attorneys who handled one of the cases would be designated as lead attorney for Board litigation cases.

**Advantageous:** The Proposer has handled one to five Massachusetts public pension matters in the past five years and at least one of the attorneys who handled one of the cases would be designated as lead attorney for Board litigation cases.

**Not Advantageous:** The Proposer has handled at least one Massachusetts public pension matters in the last five years, but none of the attorneys who handled the case would be designated as lead attorney for Board litigation cases.

**Unacceptable:** The Proposer has not handled any Massachusetts public pension matters in the last five years.

9. *Privacy Protection. BRS retirement files, which outside legal counsel would have access, contains many different forms of personal information, such as medical records, birth records, Social Security Numbers, bank account information, etc. The safeguard of personal information by outside counsel is strictly required. BRS is bound by Health Insurance Portability and Accountability Act (HIPAA), MGL c. 93H and 201 CMR 17. The Proposer must describe in particularity its information security program.*

**Acceptable:** The Proposer complies with HIPAA, MGL c. 93H and 201 CMR 17 in total. Including, but not limited to, the Proposer: (1) Designates at least one employee to maintain the comprehensive information security program; (2) Identifies and assesses reasonably foreseeable internal and external risks to the security, confidentiality, and/or integrity of any electronic, paper or other records containing personal information, and evaluating and improving, where necessary, the effectiveness of the current safeguards for limiting such risks; (3) Develops security policies for employees relating to the storage, access and transportation of records containing personal information outside of business premises; (4) Imposes disciplinary measures for violations

of the comprehensive information security program rules; (5) Prevents terminated employees from accessing records containing personal information; (6) Oversees service providers; (7) Sets reasonable restrictions upon physical access to records containing personal information, and storage of such records and data in locked facilities, storage areas or containers; (8) Regularly monitors to ensure that the comprehensive information security program is operating in a manner reasonably calculated to prevent unauthorized access to or unauthorized use of personal information; and upgrading information safeguards as necessary to limit risks; (9) Reviews the scope of the security measures at least annually or whenever there is a material change in business practices that may reasonably implicate the security or integrity of records containing personal information; (10) Documents responsive actions taken in connection with any incident involving a breach of security, and mandatory post-incident review of events and actions taken, if any, to make changes in business practices relating to protection of personal information.

**Unacceptable:** The Proposer does not comply with HIPAA, MGL c. 93H and 201 CMR 17 in total.

#### **X. ADDITIONAL INFORMATION/DOCUMENTS REQUIRED**

Each proposal must also provide the following information:

- Provide a list of representative clients who are Massachusetts public pension plans.
- Provide a list of three clients (not necessarily Massachusetts public pension clients) who may be contacted for references.
- Provide a proposed contract for legal services.
- Provide a certificate of insurance coverage reflecting professional liability insurance equal to or greater than \$1,000,000 USD.
- Identify any actual, potential or appearance of conflict of interest that may arise as a result of your firm's selection to represent BRS.
- Provide a statement explaining whether your firm or its members have had successful malpractice or professional discipline actions against it within the five (5) years immediately preceding the submittal of this proposal.

**XI. FEE PROPOSAL**

A Fee Proposal Form is contained in this RFP as Appendix C. Proposers must complete the Fee Proposal Form fully and in the format prescribed in order to be considered.

**END.**



# Vendor Disclosures (as required by G.L. c. 32 §23 & 23B)

Please submit completed form and any attachments to PERAC and the retirement board on or before March 1st. Failure to do so may subject the Fund/Entity to sanctions pursuant to Chapter 32, Section 21A. Please attach additional sheets if necessary.

**Please print or type all entries in blue or black ink.**

## 1. Vendor/Board Information

Name of Company/Entity:	
Name of Fund:	
Retirement Board:	

## 2. Compensation PAID: No Yes

Recipient of Compensation	Form of Compensation	Value of Compensation

Additional Pages Attached:  No  Yes

## 3. Compensation RECEIVED: No Yes

Source of Compensation	Form of Compensation	Value of Compensation

Additional Pages Attached:  No  Yes

## 4. Conflict of Interest? No Yes

If yes, please advise:

Additional Pages Attached:  No  Yes

## 5. Declaration and Signature

I make this disclosure pursuant to G.L. c.32, §23 and/or 23B in order to comply with the requirement that an entity providing investment services to a retirement board disclose to the Commission and the retirement board compensation, in whatever form, paid, or expected to be paid, and received, or expected to be received, directly or indirectly by the entity or a related person to others in connection with the entities services to the retirement board or any other client to whom the same service is provided. In addition, I make this disclosure of any conflict of interest that may have or could reasonably be expected to impair the ability to render unbiased and objective advice to the retirement board.

Name, First:		Last:		Suffix:	
Title:					
Signature:			Date:		

**APPENDIX B**

**Certification of Compliance with Massachusetts Tax Laws  
pursuant to M.G.L. Ch. 62C, §49A**

Under the pains and penalties of perjury, I hereby certify, as required by General Laws, Chapter 62C, Section 49A, that:

\_\_\_\_\_  
Name of Corporation, Partnership  
or Sole Proprietorship

has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support. The successful Proposer also agrees to provide the Boston Retirement System at closing a certificate of good standing from the Massachusetts Department of Revenue.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**APPENDIX C**

**FEE PROPOSAL FORM**

Proposers must complete this form and submit the completed form in a separate, sealed envelope as previously instructed. SBRS understands that it may be the policy of individual attorneys and/or law firms to charge clients through different fee arrangements, perhaps as a retainer fee or by straight hourly rate billing, or some hybrid of the two methods. Please complete the Fee Proposal Form; however, also feel free to enclose or attach any alternative billing arrangements you may wish to propose. Please separate any and all fee related proposals with this form and submit separately as required by this RFP.

1. Annual Legal Services Fees		
	Year 1:	\$
	Year 2	\$
	Year 3	\$
	Year 4	\$
	Year 5	\$
Total Legal Service Fees (Add Years 1 to 5)		\$

2. Hourly Fees for Legal Services.* Include hourly rates of each attorney or legal staff who is expected to be assigned to BRS cases.		
	Primary Counsel:	\$ /Hourly Rate
	Associate Counsel:	\$ /Hourly Rate
	Staff:	\$ /Hourly Rate
	Other:	\$ _____
*BRS understands that a firm's hourly billing rates may be subject to change. Please explain your firm's procedures and expectation of such changes citing the frequency and extent of increases based upon the firm's recent history.		