



OFFICE OF THE ILLINOIS STATE TREASURER  
MICHAEL W. FRERICHS

# Request for Information

## ERISA Counsel

Responses due November 13, 2015 by 2 pm CT.

October 16, 2015

Jim Underwood  
Chief Procurement Officer  
400 West Monroe Street, Suite 401  
Springfield, IL 62704

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## **I. Overview**

The Office of the Illinois State Treasurer (“Treasurer”) is issuing this Request for Information (“RFI”) to assist it in retaining legal guidance on the Employee Retirement Income Security Act of 1974 (“ERISA”) with respect to the Illinois Secure Choice Savings Program (“Program”). Lawyers or law firms that submit responses (“Respondents”) shall submit their responses to this RFI (“Responses”) by 2 pm on November 13, 2015.

## **II. Background**

This Section provides an explanation of the Program and why there is an interest in retaining ERISA counsel.

### **1. Illinois Secure Choice Savings Program**

On January 5, 2015, Public Act 98-1150 was signed into law, creating the Illinois Secure Choice Savings Program Act, 820 ILCS 80/1 *et seq.*, (“Act”). Pursuant to the Act, the Program was established to provide a “retirement savings program in the form of an automatic enrollment payroll deduction IRA.” 820 ILCS 80/10. The Act applies to every employer engaged in business in Illinois for at least two (2) years without a qualified retirement plan during the past two (2) years and with a minimum of 25 employees in Illinois during the previous calendar year. Such employers must establish payroll deduction retirement savings arrangements and automatically enroll their employees in the Program, unless the employee has opted out of Program.

A seven-member Illinois Secure Choice Savings Board (“Board”) was established pursuant to the Act to design and manage the Program. The Illinois State Treasurer is the Chair of the Board, and the Board has authorized the Treasurer to enter into contracts on its behalf.

### **2. Need for ERISA Counsel**

The Board must design the Program and begin employee enrollment within 24 months from the effective date of the Act, June 1, 2015. Given the possible application of ERISA to the Program, the Treasurer and the Board require legal guidance to ensure the Program is properly established and operated, as well as to provide counsel following implementation of the Program. As a result, the Treasurer intends to enter into an agreement with a law firm or lawyer to provide the Treasurer and the Board legal guidance on ERISA as it pertains to the Program (“Agreement”).

## **III. RFI Questions**

The following is a list of the questions to which Respondents must provide answers:

### Qualifications

1. What qualifications and past experience should the Treasurer seek in a law firm or lawyer when retaining ERISA Counsel to provide legal guidance to the Treasurer and the Board on establishment and operation of the Program?
2. Does Respondent have attorneys in Illinois who have sought an ERISA exemption from the Department of Labor (“DOL”)? If so, then please answer the following questions:
  - a. What are the names of the attorneys? Please provide brief biographies, if available.
  - b. How many ERISA exemptions have such attorney sought?
  - c. What is their success rate?
3. Is the Respondent a female, minority, persons with disabilities, or veteran owned or managed business? For purposes of this RFI, a “female, minority, persons with disabilities, or veteran owned or managed business” shall mean a business that is owned or managed by 51% or more of a combination of female, minority, persons with disabilities, or military veteran.

### Possible scope of work

4. Can the argument be made that ERISA does not apply to the Program? If so, what would be the basis or bases for the argument?
5. Is there any risk that the Treasurer and/or Board will get sued, face administrative sanctions, or be subject to enforcement actions due to ERISA or ERISA-related factors? If so, what are the risks and how high are such risks?

### Contract

6. Please provide an estimated budget for the Agreement, including whether the legal services would be performed on a flat fee or an hourly basis.

## **IV. Response Format**

The Respondent’s Response shall contain the following:

1. Cover page – The cover page shall provide the name, physical address, e-mail address, and telephone number of the person(s) available for contact regarding the Response. Such person(s) must be authorized to make representations on behalf of the Respondent.
2. Section I – In Section I, Respondent shall provide a brief one-page overview of itself and the ERISA-related legal services it offers.

3. Section II – Section II shall contain Respondent’s answers to the questions presented in Section III of this RFI. Respondent must respond to each of the questions. Respondent’s answers must include the headings (e.g. “Qualifications”) and be numbered in the order set forth in Section III.

The Response must be submitted in a sealed envelope or package, bearing the title “Response to the Office of the Illinois State Treasurer Request for Information ERISA Counsel” and the Respondent’s name and address. The package must include one (1) original and four (4) copies of the Response. In addition, please provide three (3) electronic copies of the Response. CDs or thumb drives are acceptable.

**V. RFI Schedule and Process**

This Section provides the process and schedule for this RFI.

**A. RFI Schedule**

The following is the schedule for this RFI:

Date	Event
October 16, 2015	RFI published on the Treasurer’s website.
October 29, 2015	All Respondent questions due to the Chief Procurement Officer by 2 pm CT.
November 5, 2015	Responses to all Respondent questions posted on the Treasurer’s website by 4 pm CT.
November 13, 2015	Responses to the RFI due by 2 pm CT.

These dates are subject to change at the Treasurer’s discretion.

**B. Contact Information**

The Treasurer’s Chief Procurement Officer (“CPO”) is the sole point of contact concerning this RFI.

Respondents should submit questions about the intent or content of this RFI and request clarification of any and all procedures used for this RFI prior to the submission of a Response. Respondents must submit their questions in writing by e-mail to the CPO by 2pm CT on October 29, 2015.

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**D. Response Submission**

All Responses must be received by mail or messenger no later than 2 pm CT on Friday, November 13, 2015.

Responses should be mailed or messengered to the CPO at the following address:

Jim Underwood  
Office of the Illinois State Treasurer  
400 W. Monroe St., Suite 401  
Springfield, IL 62704

**D. RFI Process**

1. RFI amendments

If it is necessary to amend this RFI, the Treasurer will post any amendment to its website at [www.illinoistreasurer.gov](http://www.illinoistreasurer.gov).

2. CPO may cancel the RFI

If the CPO determines it is in the State's best interest, he reserves the right to do any of the following:

- a. cancel this RFI;
- b. modify this RFI as needed; or
- c. reject any or all Responses received in response to this RFI.

3. Respondents' costs

The cost of developing a Response is each Respondent's responsibility and may not be charged to the Treasurer.

4. Withdrawal of Response

Respondent may withdraw its Response at any time prior to the deadline for receipt of Responses. The Respondent must submit a written withdrawal request, addressed to the CPO and signed by the Respondent's duly authorized representative.

5. Modification of Response

A Respondent may submit an amended Response before the deadline for receipt of Responses. Such amended Response must be a complete replacement for the previously submitted Response and must be clearly identified as such in the transmittal letter to the CPO.

6. Response is State property

On the Response due date, all Responses and related material submitted in response to this RFI become the property of the State of Illinois.