



KANSAS

KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM

November 26, 2014

Senator Ty Masterson
Chairperson
Legislative Budget Committee
P.O. Box 424
Andover, KS 67002

Representative Gene Suellentrop
Vice-Chairperson
Legislative Budget Committee
101 N. Ridge Road
Wichita, KS 67212

Dear Senator Masterson and Representative Suellentrop:

Attached please find a copy of the Kansas Public Employees Retirement System's proposed Request for Proposals for securities litigation counsel. Pursuant to K.S.A. 75-37,135, when a contract for legal services may exceed \$1,000,000, KPERS is required to submit the proposed RFP to the Legislative Budget Committee for review and comment. While it is unlikely that KPERS will be a lead plaintiff to such litigation (as opposed to being a passive member of the class – an act that does not require legal representation), public pension system best practices compel KPERS to retain representation in the event it becomes necessary.

KPERS has been represented by securities litigation counsel since 2000, but has been a lead or co-lead plaintiff only twice in that time period. Given our relatively small size, coupled with the requirement that the lead or co-lead plaintiff is the system with the largest losses, KPERS rarely qualifies to lead class action litigation. Nevertheless, the KPERS Board of Trustees' written policy provides for such representation.

If you have any questions, please do not hesitate to contact me at 785-296-1019.

Sincerely,


Alan D. Conroy
Executive Director

cc: Jill Wolters, First Assistant Revisor of Statutes
J.G. Scott, Chief Fiscal Analyst, Legislative Research

**Legislative Budget Committee
December 11, 2014
Attachment 11**

KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM REQUEST FOR PROPOSALS

ISSUE DATE: January ____, 2015

TITLE: **Securities Litigation Counsel**

ISSUING AGENCY: KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM
ATTN: LAURIE McKINNON
GENERAL COUNSEL
611 SOUTH KANSAS AVENUE, SUITE 100
TOPEKA, KS 66603

SEALED PROPOSALS for furnishing the services described herein will be received until [DATE], @ **3:00 P.M. C.S.T. LATE PROPOSALS WILL NOT BE ACCEPTED. SOLE ELECTRONIC OR TELEGRAPHIC TRANSMISSION OF PROPOSALS WILL NOT BE ACCEPTED.**

All inquiries for information should be directed to Laurie McKinnon, General Counsel, Kansas Public Employees Retirement System, lmckinnon@kpers.org, phone: (785) 296-6059, fax: (785) 296-2422.

If proposals are **mailed**, send directly to issuing agency shown above. Packages must be labeled as indicated in [Section ____, Special Terms and Conditions, Identification of Proposal Envelope]. If proposals are **hand-delivered**, deliver to Kansas Public Employees Retirement System, Reception Desk, ATTN: Laurie McKinnon, General Counsel. Packages must be labeled as indicated in Section VIII, Proposal Preparation and Submission Requirements. Note: This RFP is posted on the Kansas Public Employees Retirement System web site, www.kpers.org, to allow Respondents the ability to view documents and programs referenced in this RFP.

PLEASE RETURN THE ORIGINAL AND **SIX (6) COMPLETE PAPER COPIES AND ONE ELECTRONIC COPY IN CD FORMAT** OF YOUR PROPOSAL. ALL COPIES OF THE PROPOSAL BEING SUBMITTED MUST BE PACKAGED IN A SEALED BOX OR ENVELOPE. SEE SECTION VIII FOR DETAILS.

In compliance with this Request for Proposals and with all Conditions imposed therein, the undersigned Respondent agrees to furnish the services in accordance with the attached signed proposal or as mutually agreed upon by subsequent negotiation.

I certify that I have read and understand this Request for Proposals and am authorized to sign this proposal for the Respondent.

NAME AND ADDRESS OF FIRM:	DATE: _____
_____	BY: _____
_____	(signature in ink)
_____	NAME: _____
	(print)
	TITLE: _____
FEE/FIN: _____	TELEPHONE: _____
E-MAIL: _____	FAX: _____

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I. PURPOSE

The Kansas Public Employees Retirement System (“KPERS” or “the Retirement System”) seeks competitive proposals from law firms with an interest in analyzing and potentially representing the Retirement System in securities class action litigation. The purpose of this Request for Proposals (“RFP”) is for the Retirement System to solicit proposals from qualified firms to provide such services in accordance with the specifications, terms and conditions contained herein. This RFP provides information on KPERS’ securities litigation class action claims process, efforts at monitoring KPERS’ losses, explains the Board of Trustees’ policy with respect to class action litigation, establishes the specifications and requirements for submitting proposals, and provides information about the proposal evaluation process.

The Retirement System reserves the right without prejudice to reject any or all proposals submitted. There is no express or implied obligation for KPERS to reimburse Respondents for any expenses incurred in preparing proposals in response to this request. In the event none of the proposals are satisfactory to KPERS, no selection will be made. Proposals submitted in response to this RFP become the property of KPERS and are subject to public inspection. KPERS reserves the right to modify the RFP contents and requirements at any time prior to the submission deadline.

II. BACKGROUND

The Kansas Public Employees Retirement System, located in Topeka, Kansas, administers defined benefit pension and related benefits for public employees in Kansas. With over \$16 billion in assets, KPERS is an umbrella organization for three pension groups:

- the Kansas Public Employees Retirement System,
- the Kansas Police and Firemen’s Retirement System (KP&F), and
- the Kansas Retirement System for Judges (Judges).

These three membership groups have different actuarial assumptions, contribution rates, and benefit options. In addition to defined benefit pension benefits, the Retirement System administers life insurance and long-term disability benefit programs, as well as the state’s deferred compensation plan.

The Retirement System is a governmental defined benefit plan governed by K.S.A. 74-4901 *et seq.* and Section 401(a) of the Internal Revenue Code. It is a governmental plan as defined in section 414(d) of the Internal Revenue Code and section 3(32) of ERISA, but it is not an ERISA plan.

KPERS is governed by a nine-member Board of Trustees: two elected by members; four appointed by the Governor; one appointed by the Speaker of the House; one appointed by the President of the Senate; and the State Treasurer. An Executive Director appointed by the Board manages the System’s daily administration. KPERS has a Chief Investment Officer and several other investment professionals on staff.

KPERS wishes to contract with experienced outside counsel to provide the services detailed in this RFP for a period of five years with two one-year renewal options. Interested firms are asked to submit proposals outlining their willingness to serve in either the dual role of evaluation counsel and litigation counsel or solely in the role of litigation counsel. Firms are advised that the services of evaluation counsel must be provided at no cost to the state of Kansas and that a firm cannot be assured that any resulting litigation will be awarded to that firm.

Qualified attorneys and law firms selected through this process will be appointed to serve as Outside Legal Counsel to the Retirement System and will work directly with the System's General Counsel, and occasionally, the System's Executive Director and Chief Investment Officer.

KPERS has entered into a contract with Institutional Shareholder Services Inc. (ISS) to provide securities class action claims monitoring for the System; therefore, KPERS does not require class action monitoring from the firm it hires.

Any law firm with significant experience in securities class action litigation who is interested in reporting, analyzing and/or potentially representing KPERS in securities class action litigation should submit a response to this proposal. No securities litigation matters will be assigned to attorneys or firms not completing this process. Law firms who have previously been appointed as Outside Legal Counsel and who have submitted similar information in the past are required to respond to this request and to provide all information requested in this RFP if they want to be considered for future assignments. Failure to submit all requested information regardless of whether it has been submitted in relation to any other matter may result in disqualification from consideration.

III. TIMELINE

The following timeline is an estimate and may be adjusted at the Retirement System's discretion any time during this procurement process.

<u>Task</u>	<u>Date</u>
Distribution of RFP	
Deadline for questions submitted in writing	
Proposals due (no later than 3 p.m. C.S.T.)	
Finalist presentations	March 20, 2015
Award business (contingent on final negotiations)	
Estimated contract start date	May 1, 2015

All proposals submitted in response to this RFP must be delivered to KPERS no later than 3:00 p.m. C.S.T. on [DATE].

IV. COMMUNICATION WITH KPERS

KPERS is the sole point of contact during the RFP process and any questions should be submitted in writing to Laurie McKinnon, General Counsel, at Kansas Public Employees Retirement System, 611 S. Kansas Ave., Suite 100, Topeka, KS 66611, or by email to lmckinnon@kpers.org, or by fax at (785) 296-2422 by 3 p.m. C.S.T., [DATE]. Answers to written questions will be posted on the Retirement System's web site at www.kpers.org/procurement.htm. Vendors are responsible for checking the website periodically for updates to the RFP and responses to written questions. Telephone questions will not be accepted. No verbal communication will override written communications, and only written communications are binding.

KPERS' policy prohibits direct contact between prospective service providers and KPERS Board members, consultants or staff regarding this RFP during the selection process. From the date of release of this RFP until a Contractor is selected and a contract is executed and approved, all contacts and communications regarding this RFP are restricted except communications with KPERS staff identified in this section and designated participants in attendance **ONLY DURING** negotiations, presentations, and contract award and execution. Violation of these conditions may result in rejection of a bidder's proposal.

V. SCOPE OF WORK

KPERS is soliciting proposals from attorneys to advise and represent the System with respect to class action advice and potentially, representation in class action litigation. The scope of work is expected to include, but is not necessarily limited to, the following:

- Analysis and advice on all class action matters as requested by KPERS;
- Assist staff in analyzing KPERS' interest therein based on holdings and exposure during the relevant period;
- Assist KPERS with data and other information received by the System from its class action claims monitoring services contractor, ISS Inc.;
- Assistance in obtaining lead plaintiff status in specific matters as deemed appropriate by KPERS;
- Coordinate where possible with like-minded public systems in other states;
- Advice with respect to proposed class action settlements and recommendations regarding whether separate actions should be considered;
- Suggest legal action for KPERS as appropriate, such as remaining in the plaintiff class or opting out, intervening in the litigation for a limited purpose, or seeking lead plaintiff status (anticipated to occur rarely) and so forth; and,
- With KPERS' approval upon thorough consultation and discussion, if appropriate under the prudent-expert analysis and standard of care, initiate and manage legal action on behalf of KPERS.

- Coordination with KPERS' General Counsel, Chief Investment Officer and Executive Director regarding these issues; and
- Representation or assistance with representation, as required, in mediation or litigation not already described.

The period of appointment will commence at the date of appointment and will continue through December 31, 2020, with optional one-year renewals thereafter, at the sole discretion of the KPERS Board of Trustees, or until otherwise terminated. The Board of Trustees reserves the right to engage other counsel to provide legal advice under this RFP and to terminate any appointment (including any appointment made pursuant to this RFP) at will at any time.

The Board of Trustees further reserves the right to appoint any firms or individuals it may contract with as a result of this RFP it deems most appropriate to represent KPERS in the engagement.

VI. QUALIFICATIONS

A. MINIMUM QUALIFICATIONS

1. Respondents must have significant experience in handling securities litigation, especially class action litigation, for public pension systems and been in business in its current configuration for a minimum of ten (10) years.
2. Respondents must have actively participated as lead counsel in at least one (1) securities litigation case with an ultimate settlement or judgment equal to or in excess of \$25 million for a public pension system client.
3. Respondents must have at least one (1) principal attorney assigned to provide legal services to KPERS who has ten (10) years of securities litigation experience.
4. Respondents must agree to serve in a fiduciary capacity to the System when the firms renders legal services and advice.

B. GENERAL QUALIFICATIONS

Respondents interested in being considered for selection must specify in detail, in a section of their proposal entitled "General Qualifications," the following:

1. General background information on the firm's size, history, specialties or areas of concentration, representative clients, and so forth;
2. Experience and expertise of specific firm attorneys in the area of securities litigation;
3. Experience and expertise of specific firm attorneys relative to the PSLRA;
4. Experience of specific firm attorneys in representing state-wide or local governmental pension plans, trusts, or retirement systems (or private-sector institutional investors) under the PSLRA;

5. Names (or detailed descriptions) of governmental or private-sector institutional investors or other clients that the firm has represented or counseled relative to the PSLRA, and the names of the specific firm attorneys who provided such representation and counsel;
6. Name or style of case, docket number and jurisdiction if applicable, and current status of cases and matters in which the firm's clients have been represented or counseled relative to the PSLRA; names of the firm attorneys who worked on each case or matter; and a general description of the services provided in each case or matter;
7. At least three references willing to discuss with KPERS the firm's representation and counsel relative to securities litigation and the PSLRA, such references to include the name, title, organization, address, and telephone number of each person whom KPERS may contact.

VII. PROPOSAL REQUIREMENTS

A cover letter must accompany the proposal. The cover letter should include or enclose the following:

1. Address of the office or branch of the law firm that will service this relationship;
2. Names and vitae of lawyers who will provide legal services for this relationship;
3. Signature of a person who is authorized to bind the law firm contractually;
4. Firm organizational chart;
5. Description of firm background, history and organizational structure along with any information on any changes to the firm's organizational structure in the past five (5) years;
6. Number of firm's attorneys who specialize in securities litigation class action litigation, along with information on what proportion of the firm's business is in securities litigation;
7. Firm's history, especially with respect to attorneys who would be working with KPERS, of professional sanctions, including governmental or regulatory proceedings against the firm;
8. A copy of the firm's code of conduct or ethics policy;
9. Specification of the period for which the proposal will remain in effect, such period being not less than 90 days from the proposal due date;
10. An affirmative statement that the firm is independent of the Kansas Public Employees Retirement System, the State of Kansas, and the other participating employers in the three retirement systems; and
11. Also include the following statement:

“We have read KPERS’ Request for Proposals (RFP) for securities litigation and related legal services and understand its intent. We certify that we have adequate personnel, equipment and facilities to provide KPERS’ requested services. We understand that our ability to meet the criteria and provide the required services shall be judged solely by the KPERS Board of Trustees and its staff. Our proposal is genuine. We understand that the terms of our proposal may be incorporated in the resulting agreement for services if our firm is selected. We have no conflicts of interest in providing legal services to KPERS. We have not directly or indirectly induced or solicited any person to submit a false proposal or to refrain from proposing, nor have we in any manner sought by collusion to secure an advantage over any other proposer. We acknowledge and accept all terms and conditions included in the RFP.”

The proposal must contain a section entitled “Description of Services,” to include:

12. A description of your approach to each of the services required (which are listed in section IV above and include: assisting staff in analyzing KPERS’ interest in existing class-action securities litigation; coordinating where possible with like-minded public systems in other states; suggesting legal action for KPERS as appropriate; and initiating and managing legal action on behalf of KPERS);
13. The types and estimated number of routine functions, interactions, and transactions you would anticipate to occur with KPERS staff and how often you anticipate they would occur;
14. Suggestion as to outcomes that KPERS may anticipate from the proposed relationship and services;
15. Other services or approaches that you believe KPERS may have overlooked in preparing this RFP; and
16. Other information and suggestions as you deem appropriate.

The proposal must contain a section entitled “Fee Proposal,” to include, as applicable to the respondent’s proposal, the following:

17. Suggestions for alternatives to hourly billing, for fees relative to consulting activities (e.g., a monthly retainer);
18. Hourly billing rates, for additional assignments beyond consulting, or in the event an alternative arrangement is not agreed to;
19. Estimated periodic costs plus fees (monthly, quarterly, or annually) of consulting activities under an alternative fee arrangement or hourly billing;
20. A statement as to whether billing rates quoted are discounted from the attorneys’ or firm’s usual rates;
21. Suggestions for fee arrangements in litigated matters where specific action in the matter is pursued on behalf of KPERS; and
22. Other information or suggestions related to billing that you believe will be useful or important to KPERS in assessing your proposal.

KPERS may reject any or all proposals and may or may not waive any immaterial deviation or defect in a proposal. KPERS' waiver of any immaterial deviation or defect will in no way modify the RFP or excuse the proposer from full compliance with the RFP requirements.

Proposals may be withdrawn at any time prior to the deadline, by written notification to KPERS' General Counsel. The proposal may be resubmitted thereafter, but not after the final date and time. Modification offered in any other manner will not be considered.

VIII. PROPOSAL PREPARATION AND SUBMISSION REQUIREMENTS

Proposals submitted in response to this RFP should be prepared simply and economically, avoiding the use of elaborate promotional materials beyond those sufficient to provide a complete, accurate and reliable presentation. The Retirement System assumes no financial responsibility for any costs incurred in responding to this RFP. All materials submitted in response to this RFP become the property of KPERS and are subject to public inspection.

To be considered for selection, Respondents must submit a complete response to this RFP. One (1) original and six (6) paper copies and one (1) electronic copy in CD format must be submitted to the Kansas Public Employees Retirement System in a sealed box(s) or envelope(s). No other distribution of the proposal shall be made by the Respondent.

One (1) original and six (6) paper copies and one (1) electronic copy in CD format shall be delivered to the Kansas Public Employees Retirement System at the following street address:

Laurie McKinnon
General Counsel
Kansas Public Employees Retirement System
611 South Kansas Avenue, Suite 100
Topeka, Kansas 66603

**NOTE THAT PROPOSALS DELIVERED TO KPERS AFTER 3:00 P.M. C.S.T. ON
JANUARY _____, 2015, WILL NOT BE ACCEPTED.**

A. PROPOSAL PREPARATION

1. Proposals should be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of content.
2. Proposals should be organized in the order in which the requirements are presented in Section V. All pages of the proposal should be numbered.
3. Each paper copy of the proposal should be bound or contained in a single volume where practical. All documentation submitted with the proposal should be contained in that single volume.

4. Ownership of all data, materials and documentation originated and prepared for KPERS pursuant to the RFP shall belong exclusively to KPERS and be subject to public inspection in accordance with the Kansas Open Records Act, which is at K.S.A. 45-215 *et seq.* (exceptions at K.S.A. 45-221).

IX. EVALUATION CRITERIA AND AWARD

A. PROPOSAL EVALUATION

The Retirement System will evaluate proposals based on the following criteria:

- Qualifications and experience of the firm and key personnel assigned to KPERS, with emphasis on documented experience in successfully completing work on contracts of similar size and scope to those required by this RFP.
- The Respondent's planned approach for performing services required by the Scope of Work, Section V, of this RFP.
- The overall ability of Respondent to successfully provide the services outlined in this RFP.
- The Respondent's cost proposal.
- Other relevant criteria, as determined by the Retirement System.

At any time during the evaluation process, Respondents may be requested to be interviewed or to provide explicit written clarification of any part of their proposal. At its sole discretion, the Retirement System reserves the right to reject any or all proposals and/or to waive any deviation or defect (deemed by KPERS to be immaterial) within proposals. KPERS' waiver of any immaterial deviation or defect shall in no way modify the proposal or the RFP documents or excuse the applicant from full compliance with the RFP requirements.

B. SELECTION CRITERIA

On the basis of the evaluation factors included in Section VII Respondents deemed to be fully qualified and best suited among those submitting proposals may be interviewed by the KPERS Procurement Negotiating Committee (PNC) in a process that may include discussion and negotiation of key terms. Contract fees and rates will be considered but need not be the sole determining factor.

After interviews have been conducted with each Respondent so selected, the PNC will select the Respondent which, in its opinion, made the best proposal, and will recommend to the Board of Trustees that it award the contract to such Respondent. KPERS may cancel this Request for Proposals or reject proposals at any time prior to an award. The award document will be a contract incorporating by reference all the requirements, terms and conditions of the solicitation and the contractor's proposal as negotiated, as well as other terms and conditions as appropriate.

X. GENERAL TERMS AND CONDITIONS

A. KPSSA

This solicitation is subject to the provisions of the Kansas Professional Services Sunshine Act, K.S.A. 75-37,131 *et seq.* See K.S.A. 75-37,132(h).

B. APPLICABLE LAWS AND COURTS

This solicitation and any resulting contract shall be governed in all respects by the laws of the State of Kansas, and any litigation with respect thereto shall be brought in the District Court of Shawnee County, Kansas. See K.S.A. 74-4904(1). The Contractor shall comply with all applicable federal, state and local laws, rules and regulations.

C. KANSAS CONTRACTUAL PROVISIONS

By submitting their proposals, Respondents certify their willingness to comply with the provisions of Kansas Department of Administration Form DA-146a, Contractual Provisions Attachment, which states among other things that “[t]his form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement.” Form DA-146a is Attachment A to this RFP.

D. ETHICS IN PUBLIC CONTRACTING

By submitting their bids or proposals, Respondents certify that their bids/proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other Bidder/Respondent, supplier, manufacturer or subcontractor in connection with their bid/proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

E. CLARIFICATION OF TERMS

If any prospective Respondent has questions about this RFP or the appendices hereto, the prospective Respondent should contact KPERS’ representative, in writing, whose name appears on the face of this RFP prior to the stated deadline. Any revisions to the solicitation will be made only by addendum issued by KPERS.

F. PRECEDENCE OF TERMS

All of the above General Terms and Conditions shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.

G. QUALIFICATIONS OF OFFERORS

KPERS may make such reasonable investigations as deemed proper and necessary to determine the ability of the Respondent to perform the services/furnish the goods and the Respondent shall furnish to KPERS all such information and data for this purpose as may be requested. KPERS reserves the right to inspect the Respondent's physical facilities prior to award to satisfy questions regarding the Respondent's capabilities. KPERS further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such Respondent is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.

H. BUSINESS CONTINUITY

The Contractor must indicate any recent or anticipated changes in their corporate structure such as mergers, acquisitions, new venture capital, stock issue, etc. The Contractor agrees to present to KPERS a business continuation plan for this program in the event of natural or other disaster.

I. TESTING AND INSPECTION

KPERS reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.

J. ASSIGNMENT OF CONTRACT

A contract shall not be assignable by the Contractor in whole or in part without the written consent of KPERS.

XI. SPECIAL TERMS AND CONDITIONS

A. CONFIDENTIALITY

The Contractor is expected to comply with provisions of Kansas statutes regarding confidentiality of membership data and agrees not to disclose confidential membership information to other parties without KPERS' prior authorization and approval.

B. PROPOSAL ACCEPTANCE PERIOD

Any offer in response to this solicitation shall be valid for 90 days. At the end of the 90 days the proposal may be withdrawn at the written request of the Respondent. If the proposal is not withdrawn at that time it remains in effect until an award is made or the solicitation is canceled.

C. IDENTIFICATION OF PROPOSAL ENVELOPE

The signed proposal should be returned in a separate envelope or package addressed as directed on page. The envelope should be sealed and identified as follows:

From:

Name of Respondent

Street Address or P.O. Box

City, State, Zip Code

RFP Title: _____

Respondent's Contact Name: _____

Contact Phone Number: _____

Contact E-Mail Address:

If a proposal not contained in an envelope marked as described above is mailed or delivered to KPERS, the Respondent assumes the risk that the envelope may be inadvertently opened and the information compromised, which may cause the proposal to be disqualified. Proposals may be hand-delivered to the designated location specified on page 1. No other correspondence or other bids/proposals should be placed in the envelope.

XII. ATTACHMENT

Attachment A: Contractual Provisions Attachment (KS Dept. of Administration
Form DA-146a, Rev. 06/12)