

REQUEST FOR QUALIFICATIONS
For Special Deputy Receiver Subcontractors and Other Professional Services
RFQ-SUBS-2024-1
Issued MARCH 4, 2024

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SECTION I: INTRODUCTION

1.1 Definitions

The definitions of the terms used in this Request for Qualifications are as follows:

"Applicant" refers to a person or legal entity responding to this RFQ.

"Application" refers to a completed application submitted in response to this RFQ.

"Approved Applicant" means an Applicant approved in accordance with this RFQ.

"Chapter 443" refers to Chapter 443 of the Texas Insurance Code.

"Code" refers to the Texas Insurance Code

"Commissioner" refers to the Commissioner of Insurance for the State of Texas.

"Commissioner's Staff" refers to the Commissioner's designated TDI staff.

"RFP" refers to a Request for Proposals for an SDR.

"RFQ" refers to this Request for Qualifications.

"Receiver" refers to the Commissioner in his or her capacity as Receiver under Chapter 443. The term includes the terms "Rehabilitator" or "Liquidator," as applicable.

"Receivership" refers to a rehabilitation or liquidation proceeding under Chapter 443.

"SDR" refers to a Special Deputy Receiver appointed under Chapter 443.

"SDR Agreement" refers to an agreement to serve as an SDR.

"Subcontractor" refers to a person or legal entity retained by an SDR to provide services in a receivership.

"TDI" refers to the Texas Department of Insurance.

1.2 Purpose of RFQ

Texas Insurance Code Sections 443.102 and 443.154 authorize the Receiver to appoint SDRs and contract with other personnel in a rehabilitation or liquidation proceeding. This RFQ is issued to identify applicants who are interested in providing legal, accounting, reinsurance, claims, or information technology services to the Receiver or an SDR to:

- 1) Serve as subcontractors to an SDR. An applicant's bid that is submitted in response to an RFP for an SDR (Bid Proposal) includes proposed subcontractors. A bidder may include professionals qualified under this RFQ, but subcontractors are not required to be qualified under this RFQ.
- 2) Provide professional services in a receivership in which an SDR has not been appointed. Chapter 443 of the Code does not require the Receiver to use competitive bidding for these services.

1.3 Term of RFQ

This RFQ will remain in effect for three years, unless extended by the Commissioner. An Applicant's approval under this RFQ is valid during the term of this RFQ, unless the Applicant is disqualified. The Commissioner reserves the right to issue further RFQs for any other services in connection with receiverships at any time during the term of this RFQ.

1.4 Approval of Applicants

Applicants may submit an application for legal, accounting, information technology, reinsurance, and claims services in accordance with this RFQ.

To become an Approved Applicant, an Applicant must:

- a) meet the qualifications described in this RFQ,
- b) submit a completed Application, and
- c) be approved in accordance with the terms of this RFQ.

The Commissioner reserves the right to modify the qualification requirements and to reject any or all applications. Neither the Commissioner nor TDI will pay any costs or expenses incurred by any Applicant in submitting an Application.

SECTION II: QUALIFICATIONS

2.1 Minimum Qualifications for Applicants

Accounting

CPA license or experience in one or more of the following areas:

- GAAP and Statutory financial statement preparation and reporting
- Day-to-day operations, and reconciliation of general ledger transactions
- Tax filing knowledge for insurance receiverships
- Internal Controls
- Use of various types of accounting software
- Financial Examinations or Fraud Examinations
- Cash Management
- Forensic Accounting

Information Technology

Experience in one or more of the following areas:

- IT software and hardware
- Data security
- Network administration
- Database administration

Reinsurance

Certifications/designations or experience in one or more of the following areas:

- Audits and reviews
- Reinsurance contract analysis
- Commutations
- Billing and collections

Claims

License/Certifications or experience in one or more of the following areas:

- Handling claims under various types of policies and bonds
- Coordination with Guaranty Associations
- Administration of Proofs of Claim
- UDS reporting

Legal

- License in good standing issued by a State Bar Association
- Experience relevant to insurance receiverships

SECTION III: GROUNDS FOR DISQUALIFICATION

3.1 Mandatory Grounds for Disqualification of Applications

The Commissioner shall disqualify Applications containing false information or a false certification and the Applicant may not submit any further applications to this or a subsequent RFQ.

3.2 Discretionary Grounds for Disqualification of Applications

The Commissioner may, in his or her discretion, disqualify an Application based on any of the following circumstances that apply to the Applicant; or any of Applicant's officers; directors; or employees who would be involved in receivership work:

a) Criminal Proceedings

Any conviction of or plea of guilty to:

- (i) a felony;
- (ii) a misdemeanor involving embezzlement, theft, conversion, larceny, fraud or similar crime;
- (iii) a misdemeanor involving violence, workplace misconduct or similar crime;
- (iv) violation of a securities or insurance law; or
- (v) any other crime of moral turpitude;

b) Civil Proceedings

- (i) any finding of fraud, breach of fiduciary duty, bad faith, unfair business practices, deceptive trade practices, conversion, or any similar finding by a court or administrative law judge;
- (ii) any disciplinary proceedings by any governmental or regulatory entity;
- (iii) any action filed by a receiver, trustee, or governmental entity for a breach, failure to perform, or assessment of penalties or liquidated damages in connection with a contract;
- (iv) any entry of a civil judgment or imposition of administrative fines or penalties against the individual or a business in which such individual was an officer, director, or controlling stockholder;
- (v) any denial, revocation, or suspension of an occupational or vocational license or certification by any public or governmental licensing agency or regulatory authority, or other disciplinary actions by such a licensing entity; or
- (vi) any of the following actions with respect to an insurer, or other entity involved in the business of insurance, during the time that the person was an officer, director, or controlling stockholder of the company:

- suspension or revocation of a certificate of authority or license;
- administrative oversight;
- supervision;
- conservatorship;
- receivership; or
- any other finding of hazardous condition.

c) Conflicts and Potential Conflicts

For the purposes of this RFQ, an actual or potential conflict of interest includes any of the following situations, whether prior or current:

- (i) any situation that could create any appearance of impropriety in the event that an Applicant is approved; or
- (ii) any of the following situations involving the Applicant, or any of its officers; directors; or employees who would be involved in receivership work:
 - making a claim or other action against TDI;
 - An action by TDI against the person or entity, including, but not limited to, an action to revoke or suspend a license;
 - representing or providing services to another party in connection with a claim or action by or against TDI; or
 - representing or providing services to another party, other than the Commissioner, the Receiver, or an SDR, regarding any proceeding under Chapters 404, 441 or 443 of the Code.

d) Contractual Matters

Any termination of a contract with a receiver, trustee or governmental entity prior to the completion the contract.

The Commissioner may take any circumstances described above, and any further information provided by Applicant into consideration in determining whether an Application is subject to disqualification. The Commissioner may, in his or her sole discretion:

- (i) waive the conflict or condition and accept the Application;
- (ii) accept the Application and exclude the person or entity having the conflict or condition from inclusion in any SDR Agreement; or
- (iii) disqualify the Application.

Please note that disclosure of the items described above may be required regarding a Bidder's proposed employees or subcontractors in any Bid Proposal.

SECTION IV: REPRESENTATIONS AND DISCLOSURES

Applicant must provide all the representations and disclosures required by this Section. Failure to provide any required information may be a cause to disqualify an Application.

4.1 Representations of Minimum Qualifications

Applicant must represent that it meets all the minimum qualifications described in this RFQ.

4.2 Disclosure of Ownership

Applicant must identify any persons with 10% or more ownership.

4.3 Disclosure of Potential Grounds for Disqualification

Applicant must disclose any and all information regarding any potential grounds for disqualification described in this RFQ. Such disclosure must identify the particular matter, including any names, dates, and cause numbers, as applicable.

4.4 Additional Information

With respect to any disclosures of matters in this RFQ, Applicant may include an explanation of:

- a) any extenuating circumstances, expungement, or pardon with respect to any criminal proceedings;
- b) any relevant factors with respect to any civil proceedings; or
- c) any measures Applicant will take to mitigate potential conflicts of interest.

The Commissioner reserves the right to request additional information from an Applicant as he or she deems necessary.

SECTION V: RFQ REQUIREMENTS

5.1 Required Information

An Applicant must complete the form attached to this RFQ.

5.2 Optional Information

Applicant may include an electronic version of any brochures or similar marketing materials.

5.3 Duty to Update or Correct

Applicant must promptly notify the Commissioner in writing of any material or potentially material changes in the information contained in an Application. Examples of such changes include, but are not limited to, discovery of an actual or potential conflict of interest, loss of a professional designation, change of organization's structure, changes to a designated RA, email addresses, or contact information. The duty to update or correct continues after an Applicant is approved.

SECTION VI: SUBMISSION OF APPLICATION

6.1 Contact and Delivery Information

Applications may be submitted in an encrypted email at any time during the term of the RFQ to SDRcontracting@tdi.texas.gov. File size should not exceed 35MB. Notices or questions regarding this RFQ must be sent to: SDRcontracting@tdi.texas.gov.

SECTION VII: APPLICATION APPROVAL PROCESS

7.1 Review of Applications

Applications will be submitted to an evaluation committee of TDI employees. The evaluation committee will consider the experience, abilities, references, and/or background checks of the Applicant to determine Applicant's compliance with the RFQ requirements. Based on this information, the Commissioner may, in his or her sole discretion:

- a) approve the Application;
- b) reject the Application, if it is incomplete; or
- c) disqualify the Application.

7.2 Incomplete Applications

If an Application is incomplete, the Applicant will be notified in writing, and will be permitted to submit a revised Application.

7.3 Notification to Applicants

Applicants will be notified in writing of the Commissioner's decision regarding an Application. It is anticipated that Applications will be processed within 60 days of submission.

7.4 Disqualification of Applications

The Commissioner, in his or her discretion, reserves the right to disqualify an Approved Applicant.

If it is determined that the Approved Applicant no longer complies with the requirements of this RFQ, or that information submitted in an Application is inaccurate or no longer accurate due to changes in circumstances.

SECTION VIII: BIDDING PROCESS

8.1 General Requirements

A Bid Proposal may include proposed subcontractors, who are paid directly from the receivership. A subcontractor may be an affiliate or a subsidiary of an SDR, subject to the Receiver's approval. Subcontractors are paid from the assets of the estate or from other funding available, and are not paid from the SDR's corporate funds.

Texas Insurance Code Section 443.0135(b) contains specific requirements regarding proposed subcontractors:

A proposal submitted in connection with a bid solicitation under Section 443.0135(a) must describe the efforts that have been made to include Historically Underutilized Businesses as subcontractors and the plan for using the Historically Underutilized Businesses in the administration of the receivership estate. A special deputy appointed under Chapter 443 shall make a good faith effort to implement the plan and shall report to the Receiver the special deputy's efforts to identify and subcontract with Historically Underutilized Businesses.

To comply with this requirement, a Bidder will provide information regarding its proposed use of HUBs.

SECTION IX: RIGHTS

9.1 Applicant's Acknowledgements

Applicant acknowledges that the Commissioner has the discretion to accept any Applications and that this RFQ does not provide any recourse to any Applicant whose Application is not accepted.

9.2 Release of Applications

Applications become the property of TDI and may be subject to release under the Texas Public Information Act, Chapter 552 of the Texas Government Code.

9.3 Waivers

TDI does not waive any privileges, rights, defenses, remedies, or immunities available to it as an agency of the State of Texas, or any other rights available to TDI in connection with this RFQ.