

**Request for Proposals
Consumer Debt Collection Counsel Services**

Issued by:
Pennsylvania Housing Finance Agency

**RFP #PHFA 2017-MORTGAGE LOAN
FINANCING PROGRAMS**

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**REQUEST FOR PROPOSALS
CONSUMER DEBT COLLECTION COUNSEL SERVICES
FOR
Pennsylvania Housing Finance Agency
Mortgage Loan Financing Programs**

BACKGROUND

The Pennsylvania Housing Finance Agency (“PHFA” or the “Agency”) is a lender and servicer of mortgage loans for low- and moderate- income homeowners in the Commonwealth. From time to time, consumers experience financial hardship, default, file for protection from creditors under the federal bankruptcy laws, and seek loss mitigation. Legal action is often necessary to protect the interests of PHFA.

The Agency administers a number of programs for which legal services are sought. Programs include mortgage revenue bond financed loans originated under a variety of programs (e.g., Federal Housing Administration (“FHA”), U.S. Department of Agriculture—Rural Development (“RD”), U.S. Veterans Administration (“VA”) as well as conventional loans with or without private mortgage insurance (“PMI”). PHFA also pools and services loans in mortgage backed securities (“MBS”) securitized by Fannie Mae or Ginnie Mae. In addition, the Agency services a number of whole loans held in the Agency’s own account. Additional investors and programs may be added in the future as the Agency’s program opportunities and needs dictate. The aggregate portfolio currently serviced by PHFA includes approximately 60,000 loans.

Legal action is often necessary to protect the interests of the Agency and the various investors of MBS or the trustee in the MRB program. Actions may include debt collection, representing PHFA as creditor or servicer in certain bankruptcy actions, loan loss mitigation and modification programs, participating in judicial and quasi-judicial diversion programs and counseling efforts, handling foreclosure filings and sheriff’s sales, eviction proceedings and related property and residential issues arising through the final disposition of the asset. All of these actions are governed by various industry standards, timeframes and regulatory guidance.

This request for proposals (RFP) provides to those Law Firms interested in submitting proposals for the subject procurement (“Offerors”) sufficient information and instruction to enable them to prepare and submit proposals to the Agency. For the purposes of this RFP, the PHFA will select Law Firms based upon the criteria set forth in this RFP to be included in the pool of qualified Law Firms to provide consumer debt collection services and legal representation to the Agency.

INVITATION TO SUBMIT QUALIFICATIONS FOR AGENCY CONSIDERATION

Proposals are being sought on behalf of PHFA for qualified law firms to provide consumer debt collection services and legal representation specifically for mortgage loan programs administered by the Agency.

Using this process, the Agency intends to identify a pool of Law Firms technically qualified and able to provide the highly specialized legal services necessary to meet PHFA, industry, and investor requirements for consumer debt collection services, specifically in the mortgage foreclosure area. Statewide coverage is a must, and PHFA will select more than one Law Firm to ensure that it has adequate capacity to handle collection, foreclosure and bankruptcy litigation in all parts of the Commonwealth and for all types of investor specifications. PHFA will make specific assignments of cases as they arise.

Consumer debt collection practices are highly regulated. In addition, the various investors have specific criteria and qualifications relating to best practices. The Agency's ability to seek reimbursement and recovery of fees and costs in the disposition of assets may be severely impaired if legal services are not provided in compliance with program-specific criteria and timeframes. **Accordingly, the legal services sought are highly specialized and require dedicated staff and technical systems to support this highly regulated practice area. The Agency will only consider Law Firms meeting the Technical Qualification set forth below.**

FORM OF PROPOSAL

SECTION 1- TECHNICAL QUALIFICATION

Your proposal to serve as Consumer Debt Collection Counsel must contain the following information in substantially the following format:

- A. **Narrative:** Law Firms should provide a brief, but detailed, narrative outlining their specific experience and technical qualification to provide these services. The narrative should include:

Specific Law Firm Experience

- An outline of staffing (attorneys, paralegals, and support staff)
- A description of the years of experience, bar memberships, and court admissions of attorneys
- A list of geographic coverage of consumer collection matters in the Commonwealth (identify specific counties where your firm has coverage)
- A discussion of out-of-state experiences with similar portfolios
- Any specific examples of experiences in consumer loan servicing and collections fields
- A list of specific creditors for which the firm provides services
- Identification of any housing finance agency or small servicers for which the firm provides services
- A discussion of your firm's qualifications to provide services for Fannie Mae and for FHA accounts, including how your firm meets the 28 minimum requirements for law firms established by Fannie Mae in its Servicing Guide.

In addition to the above, your Narrative must include specific answers to the following matters-

Industry and Regulatory Expertise

- Do you have dedicated regulatory counsel on staff?
- Do you provide guidance on regulatory matters to clients?

- Provide copies of industry press you may have prepared within the past two years.
- What are your firm's industry memberships?
- Describe participation levels (Provide any printed materials outlining your engagement as speaker, author, commenter, etc.)
- Have you testified or provided any comments to the Consumer Financial Protection Bureau on regulatory proposals within the past three years? (If so, please attach.)

Data Protection/ Data Breach and Consumer Information Protocols:

- Describe your security systems to protect consumer data?
- Have you had a data breach within the past three years? If yes, please provide a narrative describing the occurrence.
- What are your employee training programs/requirements?
- What systems and steps do you undertake to safeguard communications and confidential information with your clients?

Malpractice Insurance:

- Who is your malpractice carrier?
- What is the coverage under the policy?

B. **Chart** show volume of accounts handled by firm including the data indicated below:

- Number of open accounts
- Monthly and annual totals for the two most recent fiscal years
- Monthly total for subsequent periods

C. **Chart or separate narrative** describing what percentage of your work is derived from the following:

- FHA
- VA
- RD
- Conventional
- Fannie Mae
- Freddie Mac
- Other (identify)

SECTION 2- FEE PROPOSAL

Fees for these types of matters will generally be prescribed and limited by the investor of the loans. PHFA services Fannie Mae and Ginnie Mae securitized loan pools, and services for other investors, including its own account. Counsel in this area of specialization should evidence familiarity with all investor limitations on fees and specific requirements relating to process, as applicable.

Please provide a scale outlining fee and cost expectations. We expect fee schedules to reflect knowledge of industry and investor standards.

SECTION 3- DIVERSITY AND PARTICIPATION GOALS

PHFA is an equal opportunity employer and is committed to ensuring contracting opportunities for minority owned businesses (MBE), women owned businesses (WBE) and other small disadvantaged businesses (DBE). PHFA encourages diversity in all contracting and vendor relationships. Firms should provide information regarding diversity in their staff complement and in their partnerships. Describe your firm's commitment to training, partnering with and hiring MBE/WBE/DBE subcontractors and vendors. Special consideration will be given to those firms that demonstrate a commitment to diversity and inclusion.

PHFA may take special measures in assigning work to Law Firms to achieve diversity and opportunity.

SECTION 4- LAW FIRM'S REPRESENTATIONS & AUTHORIZATIONS

PHFA requires each Law Firm to attest to each of the following items to ensure the integrity of the procurement process and the qualification of the Law Firm.

By submitting its proposal, each Law Firm understands, represents, and acknowledges that all terms and representations set forth in the Contract for Legal Services are true and correct. All of the Law Firm's information and representations in the proposal are material and important, and the Agency may rely upon the contents of the proposal in entering into any engagement with Law Firm. PHFA shall treat any misstatement, omission or misrepresentation as fraudulent concealment of the true facts relating to the proposal submission, subject to the provisions of 18 Pa. C.S. § 4904.

1. The Law Firm has arrived at the price and amounts in its proposal independently and without consultation, communication, or agreement with any other Law Firm or entity.
2. The Law Firm has not disclosed any aspect of its proposal to any other entity and it shall not disclose any of these items on or before the proposal submission deadline applicable to this RFP.
3. The Law Firm has not attempted, nor will it attempt, to induce any firm or person to refrain from submitting a proposal, or to submit a proposal higher than this proposal, or to submit any intentionally high or noncompetitive proposal or other form of complementary proposal.
4. The Law Firm makes its proposal in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive proposal.
5. To the best knowledge of the person signing on behalf of the Law Firm after investigation, the Law Firm, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last four years been convicted or found liable for any act prohibited by law in any

jurisdiction, involving conspiracy or collusion with respect to bidding or proposing on any public contract, **except as the Law Firm has disclosed in its proposal.**

6. To the best knowledge of the person signing on behalf of the Law Firm after investigation, neither the Law Firm nor any employee or partner has been suspended, terminated, debarred or otherwise prohibited from providing services to Fannie Mae, Freddie Mac or any state or federal agency, in the past or present. **If you cannot so certify, explain the circumstances of any such action. You may mark this information as confidential.**
7. The Law Firm confirms that it is not currently listed as ineligible on the federal System for Award Management ("SAM") and is not currently suspended or debarred by the Commonwealth.
8. To the best of the knowledge of the person signing on behalf of the Law Firm after investigation and except as the Law Firm has otherwise disclosed in its proposal, the Law Firm has no outstanding, delinquent obligations to the Commonwealth including, but not limited to, any state tax liability not being contested on appeal or other obligation of the Law Firm that is owed to the Commonwealth.
9. The Law Firm is not currently under suspension or debarment by any other state or the federal government, and if the Law Firm cannot so certify, then it shall submit along with its proposal a written explanation of why it cannot make such certification.
10. The Law Firm has not made any recommendations to the Agency concerning the need for the services described in its proposal or the specifications for the services described in the proposal.
11. Each Law Firm, by submitting its proposal, authorizes the Commonwealth to release Commonwealth information concerning the Law Firm's Pennsylvania taxes, unemployment compensation and workers' compensation liabilities.
12. Until the selected Law Firm receives a fully executed and approved engagement letter from PHFA as an addendum to the Contract, there is no legal and valid contract, in law or in equity, relating to the engagement and the PHFA shall not incur any liability of any kind for cost for any services rendered by the Law Firm.

GENERAL INSTRUCTIONS REGARDING SUBMISSIONS

Questions should be delivered - **in writing only** - to ChiefCounselPHFA@phfa.org. Supplemental information, including "Q&As", if any, may be posted to the PHFA website from time to time and anyone interested in responding to this RFP should reference the website for additional information.

The Agency, in cooperation with the Office of General Counsel, will select Law Firms delivering proposals which best meet the needs of the Agency, in its sole discretion, as such

needs arise. Any Law Firm selected to provide services will be required to enter into a standard Contract for Legal Services with the Agency, a copy of which is available upon request.

This Request for Proposals is not intended to create a public competitive bidding process, and the proposal with the lowest quoted fees will not necessarily be accepted, nor will any reason for the rejection of any proposal be indicated. The Agency reserves the right to privately negotiate with any Law Firm with respect to the provision of services to ensure that the appropriate services are rendered, geographic (and investor) coverage is achieved, and diversification of legal service providers is attained to the extent possible.

While the Agency intends to keep this procurement open for a period of time to ensure that it has provided time and opportunity for qualified Law Firms to respond, PHFA reserves the right to modify, withdraw and amend any aspect of this RFP at any time. The Agency reserves the right, in its sole and complete discretion, to reject any proposal received as a result of this RFP. The Agency is not responsible for any costs the Law Firm incurs in preparation and submission of its proposal, in participating in the RFP process, or in anticipation of award of the contract. Information submitted in response to this RFP belongs to the Agency and may be made public. Any Law Firm submitting information will do so at its own cost.