



**Request for Proposal
Financial Auditing Services**

July 6, 2018

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The New York Liquidation Bureau (“NYLB”) serves as the staff of the Superintendent of Financial Services of the State of New York (“Superintendent”) in her capacity as court-appointed receiver under New York Insurance Law Article 74 and as administrator of the Property/Casualty Insurance Security, Public Motor Vehicle Liability Funds and Workers’ Compensation Fund under Article 76 of the Insurance Law and Article 6-A of the New York Workers’ Compensation Law, respectively.

The NYLB invites all qualified companies (“Proponents”) to draft and submit, at the Proponent’s expense, a proposal (“Proposal”) in accordance with the requirements outlined in this request for proposal (“RFP”). The selected Proponent, if any, (“Awardee”) will be performing services solely on behalf of the Superintendent as Receiver (the “Receiver”) of impaired or insolvent insurance companies, not in her capacity as Regulator.

I. DESCRIPTION OF SERVICES

Under New York Insurance Law (“Insurance Law”) Sections 7405(g)(2) and (3), the NYLB is required, no later than August 1st of each year, to submit to the Department of Financial Services and the legislature annual financial statements (separate and combined) for the domestic insurance companies subject to rehabilitation or liquidation and the NYLB, together with an opinion or other report of an independent certified public accountant on such financial statements. The NYLB is seeking an independent certified public accounting firm (“Auditor”) to conduct an audit of: (a) the combined financial statements of the companies in liquidation other than Executive Life Insurance Company of New York; (b) Executive Life Insurance Company of New York (“ELNY); and (c) the statement of cash receipts and disbursements of the NYLB’s Central Disbursement Account (collectively, “Services”). The Services are described in more detail below.

The Services to be provided by the selected Awardee include, but are not limited to, the following:

- (1) Conduct an audit of the combined statement of assets and liabilities and the related combined statement of cash receipts and disbursements for estates other than ELNY that are in liquidation (collectively, “Combined Financial Statements”), and issue audit opinions in accordance with current professional auditing standards using a modified cash basis of accounting. A current list of domestic estates audited with the Combined Financial Statements for the calendar year 2018 that are in liquidation other than ELNY is attached hereto as Appendix A; however this list is subject to amendment due to closed estates during the year or new liquidated companies. Prior year audited financial statements can be viewed on the NYLB’s website www.nylb.org;
- (2) Conduct an audit of the supplementary schedule of combined assets and liabilities for the calendar year ending December 31, 2018 and the related combined statement of cash receipts and disbursements for the year then ended (collectively, “Supplementary Information”) accompanying the Combined Financial Statements, and the related notes to the Combined Financial

Statements; including comparing and reconciling the Supplementary Information directly to the underlying accounting and other records used to prepare the Combined Financial Statements or to the Combined Financial Statements themselves, and issue audit opinions in accordance with current professional auditing standards using a modified cash basis of accounting;

- (3) Conduct an audit of the statement of assets and liabilities of ELNY and the related statement of cash receipts and disbursements for the calendar year ending December 31, 2018 (“ELNY Financial Statements”), and issue audit opinions in accordance with current professional auditing standards using a modified cash basis of accounting;
- (4) Conduct an audit of the statement of cash receipts and disbursements of the NYLB’s Central Disbursement Account, for the calendar year ending December 31, 2018 (“NYLB Financial Statement”), and issue audit opinions in accordance with current professional auditing standards using a modified cash basis of accounting;
- (5) Issue management letters at the conclusion of each audit in accordance with Statements on Auditing Standards Nos. 114, *The Auditor’s Communication with Those Charged with Governance* and 115, *Communicating Internal Control Related Matters Identified in an Audit*.

II. RULES AND INSTRUCTIONS

Please carefully review the instructions set forth herein. In order to facilitate evaluation of all Proposals, the Proposals should adhere to the requirements outlined in this RFP. The NYLB may, in its sole discretion, modify, rescind or provide an addendum to this RFP, may require that Proponents revise their Proposals or supply additional information in response to questions, and/or may invite any Proponent to appear for an interview.

The Proponent must possess, in its own name, all of the necessary licenses, certifications, permits, approvals, and authorizations necessary to perform the Services for which the Proponent is contracting and to conduct business in the State of New York, and each of the foregoing shall be in good standing and not subject to any regulatory proceedings which could result in its revocation, suspension, or limitation.

Proposals will be reviewed by an evaluation committee that will, under the supervision of the NYLB’s Compliance Officer, consider Proponents based on the Proposals submitted, any subsequent interviews with Proponents, any additional information submitted by Proponents at the request of the NYLB and any additional information acquired by or deemed relevant by the NYLB.

Proposals must supply all items of information requested in Section IV below in the format set forth below. Material deviations from the required format may result in disqualification of the Proposal. If any item in Section IV does not apply to Proponent, Proponent must specifically indicate that the item is not applicable. Proponents may not satisfy an item of requested information by submitting or referring to a brochure, promotional or descriptive literature, or any other document.

The cover of each Proposal shall include the name of the Proponent and the subject, matter as follows: RFP for Financial Auditing Services. Each Proponent shall submit one original and three copies of its Proposal. Each Proposal must be signed and dated in the name of Proponent and must bear the signature of the person authorized to sign proposals on behalf of Proponent. By submitting a signed Proposal, Proponent certifies that (1) the information in the Proposal is materially complete, truthful and accurate; (2) Proponent has thoroughly reviewed the scope of work sought through this RFP; and (3) Proponent possesses adequate staffing, administrative capacity, and resources (including financial, operational, and information and technology systems) to perform quality and cost-effective work to achieve the scope of work.

Proposals must be sent by e-mail to:

Richard Rubinstein, Deputy General Counsel

RRubinstein@nylb.org

RFP for Financial Auditing Services

Proposals must be received no later than 5:00 p.m., EST, on August 15, 2018, unless such deadline is extended in writing by and at the sole discretion of, the NYLB. Late Proposals may be disqualified from consideration.

Proponents may submit written questions no later than 5:00 p.m., EST, on August 8, 2018, to Ronald Labenski Chief Financial Officer at ron.labenski@nylb.org with a copy to Richard Rubinstein at rrubinstein@nylb.org. All questions must be received by the date and time stated above. Responses from the NYLB will be communicated by e-mail. Inquiries received after the date and time stated above may be deemed untimely and not answered.

During the process of evaluating Proposals, the NYLB's evaluation committee may request an interview with a Proponent in-person or by telephone, may request written answers to questions or may request that Proponent submit additional information and/or supplemental responses. The evaluation committee may request that a Proponent make a presentation of its Proposal to the committee.

Except as provided in this RFP and as otherwise necessary for conducting business operations previously established with the NYLB, Proponents may not communicate with NYLB personnel who are involved in the review, evaluation or selection of Proponents. The NYLB may disqualify Proponents who engage in prohibited communications of a material nature, as determined by the NYLB.

III. INSURANCE REQUIREMENTS

Proponent must demonstrate that, if selected, it will satisfy insurance requirements as follows:

Proponent will maintain, and have available to pay claims of the NYLB in connection with this engagement, professional liability/errors and omissions insurance with a minimum limit of at least \$5,000,000 per occurrence and at least \$5,000,000 annual aggregate, to include coverage for all errors and omissions which result in financial loss to the vendor, or the NYLB. If written on a "claims-made" basis, the retroactive date must pre-date the inception of the contract or agreement. Coverage shall remain in effect during the term of the contract or agreement and for three years following the expiration.

Proponent will maintain, and have available to pay claims of the NYLB in connection with this engagement, commercial general liability insurance (property and bodily injury) with a minimum limit of at least \$1,000,000 per occurrence and at least \$2,000,000 annual aggregate. In addition, Proponent will maintain umbrella/excess insurance with a minimum limit of at least \$2,000,000 and shall list the Receiver and the NYLB as additional insureds.

Proponent will maintain, and have available to pay claims of the NYLB in connection with this engagement, first-party/third-party cyber security insurance with a minimum limit of at least \$5,000,000 per event, which shall include coverage for (i) first-party claims of the insured for, among other things, ransoms and to recover data; and (ii) third-party claims of the insured for, among other things, exposure of personal information or compromise of personal data. Proponent should describe the coverage in detail. The cyber security insurance requirements are subject to negotiation of acceptable coverage.

Proponent will maintain, and have available to pay claims of the NYLB in connection with this engagement, at least the minimum Workers' Compensation Insurance required by New York law for all employees of Proponent and the employees of any subcontractor that directly or indirectly provides services to the NYLB under the contract.

The policies of insurance required to be maintained by Proponent shall be issued by insurance companies which are admitted or licensed insurers in the State of New York and have an A. M. Best rating of not less than "A-", and are in a size category which is not lower than "VIII." The contract with the Awardee shall not contain a limitation of liability clause that limits the Awardee's liability to an amount below the insurance requirements in this RFP. The contract with the Awardee shall contain a hold harmless provision fully indemnifying the Receiver from and against any and all damages and expenses (including reasonable attorney's fees) from suits, actions and claims of every name and description arising out of Awardee's performance of the Services. However, Awardee shall not indemnify the Receiver to the extent that any claim, loss or damage arising hereunder is caused solely by the intentional neglect or negligent act of the Receiver.

It is the sole obligation of Proponent to insure any tools and equipment belonging to Proponent, its subcontractors, or agents for loss during the performance the Services required under the contract.

For all liability policies and the workers' compensation insurance required herein, Proponent shall cause to be included in its policies insuring against loss, damage or destruction by fire or other insured casualty a waiver of the insurer's right of subrogation against the New York Liquidation Bureau, and the Superintendent of Financial Services and their officers, agents, and employees. A Waiver of Subrogation Endorsement shall be provided upon request. A blanket Waiver of Subrogation Endorsement evidencing such coverage is also acceptable.

IV. CONTENTS OF PROPOSAL

Proposals shall set forth the following information:

A. General Information

1. Name of Proponent.
2. Primary Office Address.
3. General Telephone Number.
4. Contact Person email address (include specific contact information).
5. Alternate Contact Person email address (include specific contact information).
6. List Proponent's tax identification number and Certificate of Authority to do business in the State of New York.
7. List all relevant licenses held by Proponent in New York.
8. A general overview and history of Proponent including, without limitation, the number of years in business, business focus and brief description of Proponent's organization, including ownership and any operating divisions or working groups.
9. Provide a list of any government or quasi-governmental agencies for which Proponent has provided this type of service within the past five years.
10. Provide a list of all other vendors with whom Proponent has a working or contractual relationship to assist in providing the Services. Describe how Proponent manages vendors and charges for their services.

B. Expertise

Proponent shall provide a detailed statement of Proponent's qualifications and experience in performing the Services, including a summary of recent, comparable projects, along with project completion dates. Proponent must demonstrate that it has sufficient experience in the insurance industry to provide the Services and provide evidence of Proponent's ongoing insurance practice.

Proponent shall also provide resumes of all partners or senior personal assigned to the project. Each resume should set forth the partners and/or senior staff member's number of years of experience, the position the partner and/or staff member currently occupies, the length of time the Partner and/or staff member has been employed by Proponent and a detailed description of the Partner's and/or staff member's involvement with projects of similar scope.

Proponent shall identify roles and responsibilities for others expected to be actively involved in the NYLB account. Describe online access capabilities available to staff.

C. Quality Assurance

1. Confirm that Proponent will establish and maintain a quality control plan to assure the requirements of the contract are met by Proponent and its subcontractors, if any.
2. Confirm that Proponent will develop a system for monitoring compliance with the Services. Please outline the methods of identifying, correcting, and preventing deficiencies in the quality of service performed before the level of performance becomes unacceptable and disruptive.

D. Reputation and Integrity

1. State Proponent's number of years in business.
2. State all names used by Proponent within the past 10 years.
3. Certify that Proponent and all of the staff who will potentially work on the assignments are in good standing in all jurisdictions in which they have been licensed or certified.
4. Set forth a brief statement regarding the integrity and reputation of Proponent and its employees, including whether in the last ten years Proponent or any of its partners or senior officers have been the subject of any criminal conviction or any final non-appealable civil judgments for financial misconduct, fraud or other malfeasance (including actions or proceedings by governmental authorities).
5. For every judgment entered against Proponent and/or any of its staff as a result of a claim against Proponent and/or any of its staff for professional malpractice, negligence, financial misconduct, fraud or other malfeasance, Proponent shall set forth the date, all monetary relief granted, all injunctive relief granted, and the amount of the monetary judgment that currently remains unsatisfied, if any.
6. Set forth the number of settlements within the last 10 years resulting in a payment of greater than \$25,000 in connection with any claims for professional malpractice, negligence, financial misconduct, fraud or other malfeasance brought against Proponent or any of its staff.
7. Provide a brief statement regarding whether Proponent has ever been disciplined, fined or sanctioned by any governmental or regulatory authority, licensing body, trade group or association, or disciplinary or ethics panel(s).

Provide a detailed description of the underlying complaint and a summary of the finding.

E. Cyber Security

1. Confirm that Proponent will assure that all data provided by the NYLB shall stay within the continental United States.
2. Confirm that all data provided by the NYLB will not reside in a shared hosted environment.
3. Confirm that all data transmitted will be protected and, to the extent possible, encrypted while in transit.
4. Confirm that all devices used by Proponent and its employees are protected and updated with the latest antivirus and malware software.
5. Provide the NYLB with certifications of information and technology audits on an annual basis.
6. Provide the NYLB with System and Organization Control Reports (Type I and Type II) on an annual basis.

F. Potential Conflicts Of Interest

1. Provide a list of all known employees of Proponent, or any parents, subsidiaries or affiliates of Proponent, who are related by blood or marriage to any NYLB employee and/or who are living in the same household as any NYLB employee.
2. Provide a list of all known employees of Proponent or any parents, subsidiaries or affiliates of Proponent, who were previously employed by the NYLB.
3. Indicate whether Proponent or any of its parents, subsidiaries or affiliates has been involved in litigation against the Superintendent, the NYLB and/or its estates within the last 10 years as a party, witness or otherwise.
4. List the names of all persons or entities, if any, asserting claims against the NYLB and/or its receivership estates for which Proponent is currently performing work.
5. Provide a brief statement regarding whether Proponent has previously provided services to the NYLB, including whether Proponent has any financial interest in any organization that has contracted to provide services to the NYLB.

G. Fees

Set forth a statement of fees and expenses for the Services to be provided, including but not limited to hourly rate of each person on the audit and the total amount of hours needed to complete the assignment by staff.

H. EEO/Diversity/MWBE Status

1. Proponent shall set forth facts sufficient to demonstrate that Proponent is an equal opportunity employer and complies with all relevant federal, state and municipal equal employment opportunity and non-discrimination laws, regulations and executive orders. Proponent may attach hard copies of any equal employment opportunity policy statements or other relevant official firm documents.
2. Proponent shall indicate if it is certified as a Minority or Women-owned Business Enterprise (“MWBE”) with the New York State Department of Economic Development, and if so, shall provide a copy of its certification. If not, Proponent shall list any other jurisdictions and/or certifying bodies that have deemed Proponent to be minority or women owned, and shall provide a copy of any such certification.
3. If Proponent has applied for, but has not, as of the date of this RFP, been awarded certification as an MWBE by the New York State Department of Economic Development, please submit proof of a pending application, and indicate the filing date thereof.
4. Proponent shall provide any additional information that may demonstrate its commitment to equal employment opportunity and diversity in the workplace.

V. EVALUATION AND AWARD

This RFP does not commit the NYLB to select an Awardee or enter into a contract with any Proponent. The NYLB reserves the right to: (a) rescind or revoke this RFP prior to execution of a contract with the Awardee; and (b) utilize any ideas from the Proposals. The NYLB may: (a) reject a Proposal for any reason, including if it is non-responsive or non-compliant with the requirements set forth in this RFP; or (b) waive discrepancies in any Proposal. All materials submitted in response to this RFP become the property of the NYLB and will not be returned.

In selecting Awardees, the NYLB’S evaluation committee will consider, among other factors it deems appropriate, whether the Proponent: (1) has appropriate expertise in to perform the Services; (2) has demonstrated that it will commit appropriate staffing and resources to perform the Services; (3) is in good standing in the State of New York and conducts its business in an ethical manner; and (4) cost. The NYLB is not bound to accept the lowest-priced Proposal or, for that matter, any proposal. The evaluation committee’s selection of an Awardee is subject to the approval of the Special Deputy Superintendent and the negotiation and execution of a contract acceptable to the NYLB.

Written notification will be made to successful and unsuccessful Proponents.

VI. ADDITIONAL TERMS AND INFORMATION

The NYLB may revoke the selection of an Awardee for: (1) any misrepresentations in the Awardee's Proposal, (2) Awardee's failure to comply with any of the requirements of this RFP; or (3) if the NYLB, in its sole discretion, believes it is in the best interest of the NYLB to do so. If the Receiver and Awardee have already executed a contract, the Receiver may cancel the contract according to its terms.

The information contained herein shall be used for the sole purpose of responding to this RFP. The NYLB will not, and is under no obligation to, pay the costs, in whole or in part, incurred by Proponent during the preparation of Proposals. The NYLB disclaims responsibility and liability for any costs related to Proponent's participation in this RFP.