

Town Counsel Services

Town of Scituate

The Town of Scituate seeks proposals for Town Counsel Services effective October 1, 2016. Interested firms/applicants should meet or exceed RFP qualifications and be experienced in municipal law and related fields; adhere to standards of professional conduct and ethics; and be committed to rendering sound legal advice with suitable objectivity and professional detachment.

Written and electronic submissions are required, which are detailed in the RFP. Personal interviews will also be required of the finalists. The appointment will be made by the Board of Selectmen and will be renewed for each fiscal year. The RFP may be obtained on the town's website at www.scituatema.gov. Written and electronic proposals are due to: Michele Seghezzi, Assistant to the Town Administrator, 600 Chief Justice Cushing Highway, Scituate, MA 02066 on or before August 9, 2016 by 3 p.m. EST.



**REQUEST FOR PROPOSALS
FOR TOWN COUNSEL
SERVICES
TOWN OF SCITUATE, MA**

I. Objective

The Town of Scituate, Massachusetts seeks to appoint a highly qualified attorney or law firm as Town Counsel effective on October 1, 2016. The successful appointee must meet or exceed the qualifications stated herein and, in general, must be readily accessible to authorized public officials, exceptionally experienced in municipal law as further described below, scrupulous in adhering to required standards of professional conduct and ethics, and committed to rendering sound legal advice with suitable objectivity and professional detachment.

II. Background

The Town of Scituate is located 26 miles south of Boston on the south shore. It has a population of 18,000 residents which increases to 30,000 during summer months. The town is predominantly residential with some commercial area. The Town approved a FY 17 budget of \$72,803,483.00 and maintains an AA+ Standard and Poor's credit rating.

The Town's general government structure established under the Town's current Charter (March, 1972) provides for appointment of a Town Administrator by the Board of Selectmen. The Town Administrator oversees all Town department functions. The Town has an open Town Meeting. The Town Moderator, Board of Selectmen and Planning Board, Library Trustees, Board of Assessors among several other boards, are elected, while there are dozens of other appointed boards including Board of Health, Conservation Commission, Recreation Commission, Public Building Commission and Coastal Advisory Commission.

The Town's decision-making process is collaborative and consensus driven. The Town is fortunate to have many dedicated citizens with knowledge and experience in many professional and technical fields that contribute their expertise on volunteer boards, committees and task forces. Applicants are encouraged to learn more about the Town of Scituate by visiting our website, www.scituatema.gov and Facebook page. Detailed budget information is also available on the website.

The Town seeks counsel experienced in the following matters:

- General Municipal Law, established under Massachusetts General Law and case law;
- Municipal Finance;
- Town bylaws and regulations;
- Open Meeting, public record, executive session, conflicts of interest law;
- Zoning and land use issues;
- Real estate issues: acquisitions, sales, eminent domain, easements, leases, tax takings; licenses; conservation and agricultural restrictions; right-of-first refusal;
- Town Meeting: review of warrant articles and motions, advice on issues before and at Town Meeting;
- Drafting and monitoring special legislation;
- Public bidding, public construction, and municipal procurement issues including lease-purchasing of equipment and contract approval;
- Affordable Housing; MGL. C. 40B; MGL c. 44, s. 55C (Municipal Housing Trusts)
- Subdivision control law;
- Community Preservation Act;
- Wetlands regulations;
- Environmental issues;
- Elections law and procedures;
- Licensing;
- Representation of the Town in all courts, including appellate level, and administrative agencies and other litigation;
- Appellate Tax Board matters;
- Property and Liability claims against Town;
- MCAD and AAB representation

The Town expects Town Counsel attendance at the following:

- All sessions of Special and Annual Town Meetings (Annual Town Meeting is the first Monday in April, special town meeting sometime between October 1 and November 15 of any given year);

- Upon request of the Board of Selectmen (BOS) and/or Town Administrator, be present at BOS meetings or other Town agency meetings. BOS meetings are generally held 1st and 3rd Tuesday evenings of the month January to December.
- The Selectmen may have special counsel (i.e. labor issues, tax takings, Land use / wetland issues, solar and wind projects; environment/DEP permitting, etc.) and as such Town Counsel may need to collaborate or consult with Special Counsel.

III. Minimum Qualifications

A. Bar Admissions

The appointee and all those who serve as back-up to the appointee (see below) must be a member in good standing of the Massachusetts Bar and of the Federal Bar for the District of Massachusetts.

B. Experience

The appointee (not firm) must represent or have represented as Town Counsel (or functional equivalent) a minimum of one Massachusetts municipality for no less than five years each; or represented other Massachusetts municipalities in specific areas of municipal law; or possess equivalent experience. References for all municipalities currently represented or represented in the past ten years by the appointee must be furnished.

C. Accessibility and Accountability

The appointee must commit to be available for frequent contact either through in person meetings or via telephone or email, responding to all communications from authorized officials either him/her or through a qualified back up attorney within 24 hours of the call/email. Our current model for legal services has worked well with Town Counsel being available via email/telephone to answer inquiries, including calls at home or on cell phone when necessary in limited circumstances. The appointee must be accessible to Town staff and Board members. The Town Administrator's Office manages requests for Town Counsel legal advice. The appointee must also commit, as a general rule, to responding to requests for written opinions within two week unless the circumstances of the opinion warrant a shorter or longer time frame for a response.

D. Back-up

The appointee must have within his or her firm or through an established relationship at least one other qualified attorney, who is specifically assigned as a back-up for Scituate, and who is available to render advice and otherwise represent the interests of the Town of Scituate when the appointee is unavailable. In this context, "qualified attorney" shall mean another lawyer who substantially meets the minimum qualifications set forth herein for the appointee.

E. Billing

The appointee must commit to providing a summary of legal services rendered and invoices for services ordered, rendered and accepted on a monthly basis. Each statement, if based on an hourly rate for services, must disclose, at a minimum, the date of the service, the identity of the lawyer or staff person performing the service, the subject matter reference for the service, a description of the service performed, the time it took to perform that function, and the hourly rate for the individual performing the function. (See Attachment B.) Expense items must also be itemized. Billings may be subject to external review.

F. Insurance Requirements

Evidence of valid minimum insurance coverage must be submitted by the selected firm or individual prior to or upon the execution of the contract, as follow:

Workers' Compensation Insurance as required by law

Insurance Certificates with the Town named as an additional insured for each:

General Liability of at least \$1,000,000 Bodily Injury and Property Damage Liability, Combined Single Limit with a \$3,000,000 Annual Aggregate Limit.

Automobile Liability (applicable for any contractor who has an automobile operating exposure) of at least \$1,000,000 Bodily Injury and Property Damage per accident.

Lawyers Professional Liability of at least \$1,000,000/occurrence, \$3,000,000 aggregate.

The Town reserves the right to modify these insurance requirements.

IV. Fees and Expenses

The Town is committed to containing legal costs and wishes to understand the basis on which the responding attorneys propose fees and expenses. The Town requires an hourly rate proposal not retainer service costs or a minimum annual contract amount.

Towards this end, responding attorneys are encouraged to clearly outline how they might assist the Town in containing legal costs.

Any single expense/disbursement exceeding \$500 requires prior approval from Town Administrator.

The Town seeks pricing structure proposals that will include any potential increases in costs through June 30 of 2019, however, appointment of Town Counsel is made annually by the Board of Selectmen; therefore, although there will be a pricing structure in effect for three years, there's no guarantee of reappointment each year.

V. Selection

In seeking Town Counsel, the Board of Selectmen is not bound by M.G.L. c.30B or by any other constraints apart from the sound judgment of the Selectmen. This process is being used to communicate the desired qualifications of Town Counsel and to solicit information in an orderly fashion for rough comparative purposes.

A screening committee of the HR Director, Finance Director, Building Commissioner and Town Administrator has been established whose function will be to review all proposals to insure completeness, perform reference checks, and provide recommendations to the Board of Selectmen. The Board, at its sole discretion, may reduce the number of proposals and firms to interview, or interview all that meet the minimum submittal criteria. Personal interviews will be part of the process and may include more than one.

The finalists will interview with the Board of Selectmen during an open meeting. Ultimately, the Board of Selectmen will select the candidate deemed to be in the best interests of the Town, in its sole discretion. Consequently, the Board of Selectmen and Town of Scituate reserve the right to waive any irregularities in the RFP process and to accept or reject any or all proposals. It is anticipated that the selection process will conclude by September 6, 2016. The appointment of Town Counsel is made by the Board of Selectmen for each fiscal year.

Below are the projected dates for this process. The Town reserves the right to modify this schedule as it determines convenient:

July 15, 2016	RFP issued
Aug. 9, 2016	Proposals due by 3:00 pm
Aug. 10-12 2016	Screening Committee meets
Aug 16, 2016 –Sept 6, 2016	Board of Selectmen interviews finalists/makes decision
Sept. 20, 2016	Appointment made
October 1, 2016	Effective date of appointment

VI. Application

Qualified attorneys or law firms interested in responding to this RFP should fill out the attached forms completely and attach copies of all documents requested therein. Kindly return the same in a sealed envelope labeled "Town Counsel RFP" to Michele Seghezzi, Assistant to the Town Administrator who will be available to respond to questions at:

Michele Seghezzi
Asst. to the Town Administrator
Town of Scituate
60 Chief Justice Cushing Hwy
Scituate, MA 02066
mseghezzi@scituatema.gov

Please provide 10 (10) hard copies of the RFP response and all associated documentation on 8 ½ by 11 paper, along with one digital copy in Adobe pdf format at the address above.

All responses to this RFP must be received at the above address no later than 3:00 p.m. on Tuesday, August 9, 2016.

ATTACHMENT A

**RESPONSE TO REQUEST FOR PROPOSALS FOR
TOWN OF SCITUATE TOWN COUNSEL**

Name:	
BBO#	
Name of Firm:	
Street	
City, State,	
Telephone:	
Fax Number:	
Email:	
Website:	

Please respond to each of the following, using separate pages as necessary:

1. Please identify by name (and BBO #, address and phone number if different than above) the proposed Town Counsel, and, if applicable, lead counsel as well as members of a team, and each proposed back-up counsel.
2. Please attach resumes or *curriculum vitae* for each attorney identified above.
3. Do each of the attorneys identified above meet the minimum bar admission requirements of the RFP? If other than “yes”, please explain.
4. With respect to each attorney identified, please list each and every Massachusetts municipality represented by the attorney within the past ten years, the years of such representation, and the name, address and phone number of at least one contact person in each municipality with knowledge of the attorney’s representation.
5. Please describe each identified attorney’s experience in municipal law.
6. Please describe how you propose to satisfy the Accessibility and Accountability requirements of the RFP.

7. Please describe how you propose to satisfy the attorney back-up requirements of the RFP.
8. If services are to be provided by a team of lawyers, describe how the team approach would work. For example, will specific attorneys be assigned to specific cases or subject matters? Will the specific attorney remain the contact throughout the case or matter?
9. How would you conduct or oversee litigation, including administrative proceedings, in which the Town and its boards are involved in their official capacity, to the extent such legal services are not provided by the Town's insurance carriers or outside counsel?
10. Are you available to review and approve as to form and content all contracts to which the Town is a party?
11. Do you provide regular updates on regulations, legislation and court decisions affecting municipalities and, if so, would this be a separate expense?
12. Do you provide training in legal obligations and compliance for elected, appointed and compensated Town employees on issues such as conflict of interest, ethics, freedom of information, open meeting law and harassment, and, if so, would this be a separate expense?
13. Please describe your suggestions for the transition from current Town Counsel if applicable.
14. Please describe any complaints with the Board of Bar Overseers or suits against each identified attorney in the last ten (10) years and how the complaints or suits have been resolved.
15. For each Town you and, if applicable, members of your firm have represented, please list those cases where municipal litigation has been undertaken in the last five (5) years (do not list special ed or appellate tax board cases) and the results of such litigation.

By my signature, I certify that the information contained in this Response to Request for Proposals are complete and accurate, to the best of my knowledge and belief.

Signed: _____

Date: _____

ATTACHMENT B

RESPONSE TO REQUEST FOR PROPOSALS FOR TOWN OF SCITUATE TOWN COUNSEL - FINANCIAL INFORMATION

Fees and Expenses Response Sheet

(To be attached to and made a part of the overall Response to Request for Proposals)

1. Please list the name and hourly rate for proposed Town Counsel and for each attorney intended or likely to serve as back-up.
2. If you propose to bill for services provided by paralegals, clerical staff, or other non-attorney personnel, please list by title and by hourly rate each position for whom you may bill.
3. Please provide a complete listing of all charges for expenses you intend to impose as incurred (i.e., any and all copy charges, telephone charges, fax charges, mileage charges and the like, but excluding any fees for stenographers, court fees, service fees and the like).
4. In what hourly increments do you intend to bill?
5. Do you bill out attorney time out of the office on a portal-to-portal basis or some other basis? Please describe.
6. For each city or town you represent list the legal budget (broken down) the last five years and the actual amount spent that year, with an explanation for any substantial differences.
7. For each city and town, describe cost containment procedures you have implemented to keep the legal budget reasonable and cost effective.

ATTACHMENT C

MUNICIPAL LAW EXPERIENCE CHECKLIST (To be completed for each team member)

Rate your experience within the last five years in the following areas of municipal law using the scale below

1. No experience
2. Limited experience
3. Moderate experience
4. Advanced experience
5. Extensive experience

- _____ General Municipal Law established under Massachusetts General Law and case law;
- _____ Municipal Finance;
- _____ Town bylaws and regulations;
- _____ Open Meeting, public record, executive session, conflicts of interest law;
- _____ Zoning and land use issues;
- _____ Real estate issues: acquisitions, sales, eminent domain, easements, leases, tax takings; licenses; conservation and agricultural restrictions; right-of-first refusal;
- _____ Town Meeting: drafting and review of warrant articles and motions, advice on issues before and at Town Meeting;
- _____ Drafting and monitoring special legislation;
- _____ Public bidding, public construction, and municipal procurement issues including lease-purchasing of equipment and contract approval;
- _____ Affordable Housing; MGL. C. 40B; MGL c. 44, s. 55C (Municipal Housing Trusts)
- _____ Subdivision control law;
- _____ Community Preservation Act;
- _____ Wetlands regulations;
- _____ Environmental issues;
- _____ Elections law and procedures;
- _____ Licensing;
- _____ Representation of the Town in all courts, including appellate level, and administrative agencies and other litigation;
- _____ Appellate Tax Board matters;
- _____ MCAD and AAB representation
- _____ Property and Liability claims against Town;

ATTACHMENT D

**STATEMENT OF LITIGATION EXPERIENCE
(To be completed for each team member)**

Rate your experience with in the last five years practicing with the following Courts, Boards and Commissions based on the scale listed below.

- 1. No experience
- 2. Limited experience
- 3. Moderate experience
- 4. Advanced experience
- 5. Extensive experience

- _____ Trials before State Courts (District, Superior, Land Courts)
- _____ Trials before Federal District Courts
- _____ Appeals before Massachusetts Appeals Court
- _____ Appeals before Massachusetts Supreme Judicial Court
- _____ Administrative Proceedings before Massachusetts Civil Service Commission
- _____ Arbitration Proceedings
- _____ Mediation Proceedings
- _____ Administrative Proceedings before Massachusetts Appellate Tax Board
- _____ Administrative Proceedings before Massachusetts Department of Environmental Protection
- _____ Administrative Proceedings before the ABCC
- _____ Administrative Proceedings before the Housing Appeals Committee
- _____ Administrative Proceedings before MCAD or the AAB
- _____ Administrative Proceedings before Division of Administrative law Appeals