

Description(s):

FCC FAIR LABOR STANDARD ACT (FLSA) SUPPORT SERVICES – REQUEST FOR INFORMATION #RFI09000023.

The Federal Communications Commission (FCC) plans to award a Time and Materials (T&M) contract to support the Office of Human Resource's response to National Treasury Employees Union (NTEU) grievance(s).

Accordingly, by this Request for Information (RFI) FCC is surveying the commercial marketplace and other sources of off-the-shelf FLSA expertise for entities that can provide expert consultation analysis, recommendation, and litigation support services. The information will be used exclusively by the FCC HR staff to support and assist in the preparation, implementation, and litigation activities required for/by this project. Expert consultation, analysis, recommendation, and litigation support services for which FCC is seeking information include the following tasks/requirements:

- i. The contractor shall submit a final written report that identifies the potential risk or concerns with current FLSA determinations based on possible inappropriate FLSA determinations. The report will provide the results of each position description's FLSA exemption determination, the analysis conducted, and the justification for each determination. The report will assess the potential financial risk and provide options for the agency to consider relating to the NTEU grievance. The risks and options will be based on FLSA exemption determinations made and knowledge of how like grievances have been decided before arbitrators and the courts.
- ii. The contractor shall make a FLSA exemption determination, correctly applying FLSA and OPM exemption criteria, for Federal positions based on a review of position descriptions and discussions with managers and incumbents;
- iii. The contractor shall review the Commission's FLSA application practices and obtain an understanding of the occupations currently in question as part of the NTEU grievance by reading a sampling of the positions descriptions (PDs) for the grieved positions and discussions with Human Resources staff, managers and/or incumbents;
- iv. the contractor shall be able to serve in the capacity of FCC expert witness either in meetings with NTEU or before a third party.
- v. The contractor shall have expert knowledge of the Fair Labor Standards Act, 29 U.S.C. chapter 8 (sections 201-219,) as it applies to U.S. Government employment.
- vi. The contractor shall also have expert knowledge of the U.S. Office of Personnel Management's (OPM) FLSA regulations published in part 551 of title 5, Code of Federal Regulations (CFR) and Department of Labor Regulations as well as case decisions.

- vii. The contractor shall have experience reviewing the duties performed by Federal employees and making exemption determinations in compliance with the exemption criteria in the FLSA, CFR, and supplemental guidance issued by OPM.
- viii. The contractor shall have current knowledge of arbitration and court case decisions in Federal service FLSA litigation.
- ix. The contractor shall have experience representing organizations in accordance with Federal Fair Labor Standards Act (FLSA) Litigation, Arbitration and/or Settlement Discussions;
- x. The contractor shall have experience in the application of FLSA Regulations and Case Decisions to U.S. Federal Government positions to accurately:
 - 1. Determine and Defend Decisions to ‘Exempt’ Federal Positions;
 - 2. Determine agency risk based on an assessment of ‘exempt’ positions
- xi. Experience Serving as an Expert Witness on behalf of a federal Agency.

Goal – FCC’s goal in securing such support services include providing a well documented risk assessment of whether the grieved position descriptions accurately reflect FLSA exemption criteria.

Scope – The services under this contract will be specifically for the review, assessment, evaluation, and analysis of FLSA exemption determinations of the grieved positions and preparation of a risk assessment identifying the risks and options in responding to NTEU’s FLSA grievance.

FCC is seeking comprehensive information for planning purposes only. Responses are requested if you can provide: Any part of the relevant requirement(s) of this RFI; **It is requested that interested entities attend an industry briefing day on January 8, 2009 at 11:00 AM EST, located at FCC Headquarters, 445 12th Street, SW, Washington, DC.** Please RSVP to attend at: mashonda.smith@fcc.gov. RSVP must be submitted no later than 2:00 PM EST, January 5, 2009, in the form of an e-mail. Additional responses, informational discussion may be submitted via e-mail to the aforementioned e-mail address. A formal RFQ and RFP will be posted NLT c.o.b. January 12, 2009. Additional instruction(s) will be provided in the formal solicitations. FCC reserves the right to contact vendors, to provide clarifications on capabilities or to ask questions. FCC shall not assume any expenses incurred by any of the respondents to this RFI. This is a Request For Information (RFI). This market research is for informational and planning purposes only.