

REQUEST FOR PROPOSALS

DRAFT

ENDORSED PROFESSIONAL LIABILITY INSURANCE CARRIER

March 7, 2006

**Tennessee Bar Association
221 Fourth Avenue North, Suite 400
Nashville, TN 37219
615-383-7421
615-297-8058 (fax)
www.tba.org**

REQUEST FOR PROPOSALS

2/24/06
Draft

Issue Date: March 7, 2006

Title: Endorsed Professional Liability Insurance Carrier

Issuing Entity: Tennessee Bar Association
221 Fourth Avenue North, Suite 400
Nashville, TN 37219-2198

Period of Contract: For three years from June 2006, with three one-year Renewal options

Proposals Will Be Received Until March 31, 2006, 5:00 p.m. CST.
Any proposal received after that date and time will be rejected.

All Inquiries For Information Should Be Directed To:

**Sarah Hendrickson
Membership Director
Tennessee Bar Association
221 Fourth Avenue North, Suite 400
Nashville, TN 37219
Phone: 615-383-7421
Fax: 615-297-8058
Email: shendrickson@tnbar.org**

This page, or a copy thereof containing an original signature, must be attached to and made a part of each firm's written proposal.

In Compliance With This Request For Proposals And All The Conditions Imposed Therein And Hereby Incorporated By Reference, The Undersigned Offers And Agrees To Furnish The Services In Accordance With The Attached Signed Proposal Or As Mutually Agreed Upon By Subsequent Negotiation.

Name and Address of Firm:

(Name of Firm)

(Mailing Address of Firm)

(City, State, Zip Code)

Date: _____

By: _____
(Print Name)

(Signature in Ink)

Title: _____

Telephone Number: (____) _____

Firm's FEI/FIN Number: _____

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I. PURPOSE OF REQUEST FOR PROPOSALS

The purpose and intent of this Request For Proposals (RFP) is to enter into a contract with a professional liability insurance carrier for lawyers professional liability insurance that would receive the endorsement of the Tennessee Bar Association ("TBA"). The TBA, from January 28, 1993, until January 24, 2003, had an endorsement agreement with American National Lawyers Insurance Reciprocal ("ANLIR") for underwriting TBA's endorsed professional liability insurance program. The essential features of this program were profit sharing with Tennessee policy holders and opportunities for sharing information, input and consultation on decisions affecting policy coverage, underwriting standards, claims handling, risk management programs, debt service, marketing and reinsurance. Of particular importance are the loss prevention, risk management and claims handling services provided to insureds. The TBA has more than 8,500 members.

II. BACKGROUND

TBA had a contract with ANLIR, as its endorsed professional malpractice program. Because of the adverse developments regarding ANLIR and its intermediate reinsurer Reciprocal of America, the TBA terminated its agreement on January 24, 2003. More than 3,200 Tennessee lawyers were covered under the program. Total annual written premium exceeded \$5.5 million. Since March 2003 the TBA has endorsed Arthur J. Gallagher as the professional liability broker. Under that endorsement , some 91 accounts representing 600 lawyers were written last year.

TBA is publishing this RFP with the intent of receiving proposals for comparison and evaluation to determine whether continuation of entering an endorsed relationship would be in the best interests of its membership in light of current and anticipated insurance market developments. The TBA also will consider proposals for endorsed brokerage agreements and for development of a risk retention group or other mutual, reciprocal, or other type of "captive" arrangement.

III. DEFINITIONS

The term "Offeror" shall refer to the entity submitting a proposal. The term "Contractor" shall refer to the entity to which a contract has been awarded.

IV. STATEMENT OF NEEDS

Due to the nature and importance of the services to be provided in any program endorsed by the TBA, the Offeror will be required to demonstrate, at a minimum, the following:

- A. Compliance with all requirements for organization and licensure by at least one state department of insurance in the United States. Identify the admitted status of the company and whether or not it would have guaranteed fund protection in Tennessee.

- B. A sufficient number of full-time employees to perform the administrative duties associated with this RFP and the administration of the endorsement contract.
- C. A commitment to handling claims and providing risk management services from fully staffed offices located within the State of Tennessee.
- D. A commitment to assisting TBA and its members in managing loss prevention and providing risk management services to Tennessee lawyers.
- E. A policy form providing coverage on terms identical or substantially similar to those of TBA's current endorsed programs, including a specific provision for defense costs outside the policy limits.
- F. Authorization by the governing body of the Offeror for the appointment by TBA of a management advisory committee to be called the TBA Advisory Committee ("TBAAC") that must be consulted and allowed to have input on all major decisions a reasonable person would consider relevant in endorsing or recommending a carrier to provide professional liability insurance coverage. A major decision is one that has the potential to significantly affect future success, profitability and costs of insurance coverage for Tennessee policyholders, such as expansion into another jurisdiction, incurring substantial additional debt or materially changing the nature or terms of reinsurance. Of particular importance is the ability to demonstrate a commitment to treat the TBA as a strategic partner in evaluating and making decisions materially affecting the future of the Tennessee book of business.
- G. A commitment to sharing information on a timely basis with the TBAAC on the offeror's performance generally and in Tennessee, with the Tennessee book of business maintained separately so as to show current and cumulative profits.
- H. Program features which the TBA will consider attractive include substantially similar to those of TBA's current endorsed program, including:
 - (1) A profit-sharing plan for Tennessee policyholders based on profitability experienced by the Contractor on the Tennessee book of business;
 - (2) A risk management program managed by the TBAAC committee and funded by a percentage of premium paid by Tennessee policyholders;
 - (3) A Tennessee based marketing program that includes advertising with the TBA and other appropriate publications and sponsorship of events at TBA and other appropriate meetings;

- (4) Continuous TBA ownership of expiration dates with a covenant not to compete with any replacement TBA endorsed program for a period of three years;
 - (5) Competitive premiums for Tennessee insureds; and
 - (6) A rating of not less than A- by AM Best or by one or more insurance rating agencies satisfactory to the TBA and its legal and insurance counsel.
- I. The facilities and capacity to perform assignments in a timely fashion. The Offeror should demonstrate its ability to comply with time lines established by law and outlined in applicable regulations governing the claims handling process.
 - J. Compliance with applicable regulatory and ethical guidelines governing the selection of executive officers, including general counsel. Of particular importance to TBA are:
 - (1) a management team characterized by strong, independent, experienced insurance executives; and
 - (2) the provision of legal advice to the carrier from strong, independent and experienced legal counsel fully accountable to management and the governing body of the carrier.
 - K. A strong record of success in underwriting lawyers professional liability insurance in the United States.

V. PROPOSAL PREPARATION AND SUBMISSION REQUIREMENTS

A. GENERAL REQUIREMENTS

- 1. In order to be considered for selection, Offerors must submit a complete response to this Request For Proposals. All information requested shall be submitted. Failure to submit all information requested may result in the TBA requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal. Proposals that are substantially incomplete or lack key information may be rejected by the TBA. Mandatory requirements are those required by law or regulation or are such that they cannot be waived and are not subject to negotiation.
- 2. One (1) original and ten (10) copies of the proposal must be submitted along with an electronic version in either Microsoft Word or PDF, and must contain the full name and address of every Offeror having an interest in the proposal. The RFP Form, included after the cover page of this Request For Proposals, must be signed and completed on each

proposal submitted. This submission must be in a sealed envelope and must be received no later than 5:00 p.m. on March 31, 2006. Proposals received after that date and time will be returned unopened and will not be considered.

3. Proposals should be prepared simply and economically. TBA is most interested in the quality of the proposal with regard to the program being suggested, and will be least interested in puffery or the aesthetic "look" of the proposal. There should be a straightforward, detailed, thorough and concise description of the program proposed by the Offeror and the Offeror's capabilities to satisfy the requirements of the Request For Proposals. Emphasis should be on completeness and clarity of content.
4. Proposals should be organized in the order in which the requirements are presented in the Request For Proposals. All pages of the proposal should be numbered. The proposal should contain a table of contents which cross-references the Request For Proposals requirements. Information which the Offeror desires to present that does not fall within any of the requirements of the Request For Proposals should be inserted at an appropriate place or be attached at the end of the proposal and designated as additional material. Proposals that are not organized in this manner risk elimination from consideration if the evaluators are unable to find where the Request For Proposals requirements are specifically addressed.
5. Each copy of the proposal should be bound or contained in a single binder where practical. All documentation submitted with the proposal should be contained in that single binder.
6. Ownership of all data, materials and documentation originated and prepared for the TBA under this Request For Proposals shall belong exclusively to the TBA. Trade secrets or proprietary information submitted by an Offeror shall not be subject to public disclosure. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. The classification of the entire proposal document as proprietary or trade secrets is not acceptable and will result in rejection of the proposal.
7. IDENTIFICATION OF PROPOSAL ENVELOPE: The signed proposal should be returned in a separate envelope or package, sealed and identified as follows:

FROM:

Name of Offeror	Due Date	Time
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Street or Box No.

RFP No.

City, State, Zip Code

RFP Title

Attention: Sarah Hendrickson, Membership Director

B. SPECIFIC PROPOSAL REQUIREMENTS

Proposals should be as thorough and detailed as possible so that the TBA may properly evaluate the Offeror's capabilities to provide the required services. Offerors are required to submit the following items as a complete proposal:

1. Return the form found on page RFP Form completed and signed as required.
2. A written statement that includes the following:
 - a. **QUALIFICATIONS** - Because of the nature and importance of the work that will be performed, it is critical that the Offeror possess very strong qualifications. An Offeror should be able to demonstrate that it has considerable experience or expertise in legal professional liability insurance. The Offeror should also be duly licensed and qualified to operate in Tennessee or able to demonstrate its ability to secure all necessary licenses and qualifications to operate in Tennessee on or before March 31, 2006. Appropriate credentials and experience for qualification as required by applicable laws and regulation are also a necessity.
 - b. **CAPACITY** - A thorough discussion of the capacity of the Offeror to successfully provide the desired services. This explanation should include a description of the range and services and the systems used to handle claims including:
 1. Your method of resolving claims within the time allowed by law;
 2. Your method for selecting and assigning counsel to defend claims including your method for checking on possible conflicts of interest for the Offeror or any of its service providers;
 3. Your method for preserving confidentiality of client records, personal information and proprietary information;

4. Your method of communicating with all parties involved in the claims handling process including the insured, claimants and regulatory officials;
5. Your hours of operation and requisite on-call staff to process claims within the required deadlines.

In addition, the Offeror must provide a description of the administration and operation of its organization. This should include an estimate of the number, types, and functions of the personnel necessary to the administration and operation of the organization. The Offeror must provide a chart that details the individuals responsible for the operation of the Offeror, including all members of the governing body, the officers and directors if it is a corporation, and the partners and associates if it is a partnership or association, and their levels of responsibility within the organization. A resume or short background description for each individual meeting the description should be included.

- c. **STAFF** - Identification of all senior management and personnel responsible for managing the Tennessee program, including those responsible for underwriting, risk management, marketing and handling claims, with a description of the relevant experience of each. The information provided shall include: the name, professional license(s), board certification, specialty, experience, affiliations or contracts with attorneys and law firms in Tennessee, and any disciplinary actions imposed or pending. The Offeror should identify who will perform these functions, describe the extent of their involvement, and demonstrate their qualifications. In addition, the Offeror will be required to indicate for each person identified its best estimate of the actual percentage of each person's time that will be allocated to this contract, and whether such time will be primarily technical, supervisory, in an oversight capacity, or on a consulting basis. New personnel to be employed in Tennessee to carry out responsibilities under the endorsed programs proposed should be identified as to number and qualifications.
- d. **APPROVAL OF CONTRACTOR PERSONNEL:** Personnel commitments identified in a proposal in response to subparagraph (c) shall be considered mandatory to the work performed under this RFP. Staffing must include those individuals proposed. No changes to personnel may be made by the Contractor without prior written consent of TBA with the exception of death or the removal of personnel who have permanently terminated employment or who become unavailable due to an extended illness. Replacement of any personnel, if approved, shall be with personnel of equal ability,

experience and qualifications. The key personnel shall not be diverted from the program without written consent of TBA. Key personnel are those individuals who are determined by TBA to be central to the management and development of the Tennessee program. Changes or diversion of Contractor key personnel without written consent of TBA will be sufficient grounds for termination of the contract for default.

If personnel are lost because of death, termination or extended illness, Contractor agrees to replace them within a reasonable time not to exceed sixty (60) days, including preapproval of the replacement. TBA may extend the time for replacing these personnel if the Contractor submits a written request for an extension of time. The Contractor shall include in the required status reports its efforts and progress in finding replacements and the effect of the absence on the progress of the program. In addition, the Contractor shall make interim arrangements to assure that the program's progress is not adversely affected by the loss of the personnel.

- e. REFERENCES: If possible, Offerors should list at least three references where similar services have been provided through an endorsed state bar program. Each reference should include the name of the organization, the complete mailing address, the name of the contact person and telephone number.

ORGANIZATION ADDRESS CONTACT PERSON TELEPHONE

- 1.

- 2.

- 3.

- f. AUTHORIZED PROVIDERS: A description of the process that would be used to select and maintain a panel of qualified counsel.
- g. AVAILABILITY OF PROVIDERS: A description of how the Offeror will ensure the availability of providers as needed for timely and efficient handling of claims. This description should include the method the Offeror will use to obtain a provider not currently under contract with the Offeror.
- h. ADDITIONAL INFORMATION: Any additional facts the Offeror considers relevant to this Request For Proposals may be included. Offerors are encouraged to provide the following information:

- i. Service providers. The names, addresses, qualifications and areas of expertise of the providers it would use to perform services under this Request For Proposals;
- ii. Internet site. A description of how the Offeror could provide insureds with internet access to the following information:
 - a. a link to the Contractor's provider directory along with a capability to select a provider by fax, e-mail or both;
 - b. benefits information;
 - c. premiums;
 - d. an outline of coverage and
 - e. other information about the plan.
- iii. Benefits brochure. A model brochure for insureds explaining how the offeror's policy works.

C. FINANCIAL STATEMENTS: Offeror shall include with its proposal copies of its most recent annual and quarterly financial statements filed with federal and state regulatory authorities including any amendments, addendums, and supplementary materials.

D. ORAL PRESENTATION: The Offeror's written response to the Request For Proposals must be complete in all respects. Subsequent oral presentations may be scheduled at the sole discretion of the TBA.

VI. EVALUATION AND AWARD CRITERIA

A. EVALUATION CRITERIA

Proposals shall be evaluated by TBA on the basis of a "points earned" matrix, comprised of the following sections:

1. Demonstration, via the written proposal, that the Offeror has the ability, facilities, and capacity to provide all required services in a timely, efficient and professional fashion. Specifically, the Committee will be evaluating proposals to determine if the Offeror is organized and has the appropriate infrastructure in place to administer the program by:
 - a. Its ability to effect timely resolution of claims, including its ability to respond to claims within the time allowed by law;

- b. Its process of selecting defense counsel and other qualified providers of dispute resolution services;
 - c. Its methodology used for making assignments and its ability to communicate with all relevant parties involved in a claim;
 - d. Its experience and ability to evaluate and review claims;
 - e. Its ability to demonstrate due diligence in the processes used to determine whether a conflict of interests exists;
 - f. Its hours of operations;
 - g. Its ability to comply with the requirements concerning the confidentiality of clients records, personal and proprietary information; and
 - h. Its ability to provide access to computer systems and to provide data in a format prescribed by TBA.
2. Experience and expertise of specific personnel assigned to the contract including:
 - a. The availability and experience of staff including quality and experience of staff responsible for handling claims and providing other management services;
 - b. The number and the qualifications of legal services providers under contract; and
 - c. Its demonstrated ability to obtain additional providers as needed.
 3. Profit-sharing proposal.
 4. Experience of the Offeror in providing similar services.
 5. References from past and/or current endorsing state bars.
 6. Rating of Offeror by insurance rating agency.

B. AWARD OF CONTRACT

TBA shall engage in individual discussions with two or more Offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews with these Offerors shall be permissible. Such Offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. At the discussion stage TBA may discuss nonbinding estimates of program profitability, including, but not limited to, and, where appropriate, nonbinding estimates of price for services. Proprietary information from competing Offerors shall not be disclosed to the public or to competitors. At the conclusion of the informal interviews, on the basis of evaluation factors published in the Request For Proposals and all

information developed in the selection process to this point, TBA shall select, in the order of preference, two or more Offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the Offeror ranked first. If a contract satisfactory and advantageous to the purchasing agency can be negotiated at a price considered fair and reasonable, the award shall be made to that Offeror. Otherwise, negotiations with the Offeror ranked first shall be formally terminated and negotiations conducted with the Offeror ranked second, and so on, until such a contract can be negotiated at a fair and reasonable price. Should TBA determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that Offeror. At any time during the negotiations, TBA may terminate all negotiations and re-advertise the requirements. The reason(s) for such termination shall be part of the file. TBA may reject proposals at any time prior to an award and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous.

VII. TENTATIVE SCHEDULE OF EVENTS

	ACTIVITY	DATE
1.	Advertise Request for Proposals	March 7, 2006
2.	Proposals Due	March 31, 2006
3.	Proposal Review and Negotiations	April, 2006
4.	Notice of Intent Award	April, 2006
5.	Contract Award	April, 2006
6.	Contract Date	April, 2006

VIII. CONTRACT PERIOD

The Contract period is from June, 2006, through May, 2009, with three (3) one year renewal options at the sole discretion of TBA. Compensation under the contract awarded will be paid pursuant to this Request For Proposals. The successful firm will provide a detailed report identifying the program in a form prescribed by the TBA on a monthly basis.