# Request for Proposals (RFP)

**Policy Studies, Conferences, and Development Programs in Support of Fair International Protection of Intellectual Property Rights**

**Solicitation Number DOC52PAPT0901023**

The United States Patent and Trademark Office (USPTO) is seeking proposals from parties interested in performing policy studies, conferences, and other development programs in support of fair international protection of intellectual property rights. The USPTO intends to issue joint projects and/or cooperative agreements to conduct these programs.

## SECTION A: BACKGROUND

On April 8, 2009 USPTO issued a Request for Information (RFI) in order to gauge interest and ideas from the intellectual property community. Expressions of interest were due on April 30, 2009. USPTO has reviewed the responses to the RFI and issues this Request for Proposals (RFP) in response.

The USPTO intends to competitively issue/award joint projects and/or cooperative agreements to conduct these programs. Interested parties are advised that information is requested subject to the authority contained in the FY2009 Omnibus Appropriations language and no contractual awards subject to the Federal Acquisition Regulation (FAR) will be issued.

On March 11, 2009, the President signed the Omnibus Appropriations Act, 2009 (H.R. 1105) into law (P.L. 111-8). The law, in part, provides that no less than $4 million of appropriated amounts shall be available only for the United States Patent and Trademark Office (USPTO) contribution in a cooperative or joint agreement or agreements with a non-profit organization or organizations to conduct policy studies, conferences, and other development programs, in support of fair international protection of intellectual property rights.

In accordance with the law, all three requirements must be met in order for an organization to be eligible to enter into an agreement with the USPTO. First, the organization must be a non-profit organization. Second, the non-profit organization must have been successfully audited within the previous year. Third, the non-profit organization must have previous experience in such programs.

The text of the relevant provision of P.L. 111-8 reads as follows:

*Provided further, That from the amounts provided herein, no less than $4,000,000 shall be available only for the USPTO contribution in a cooperative or joint agreement or agreements with a non-profit organization or organizations, successfully audited within the previous year, and with previous experience in such programs, to conduct policy studies, including studies relating to activities of United Nations Specialized agencies*

*and other international organizations, as well as conferences and other development programs, in support of fair international protection of intellectual property rights.*

Additional requirements apply depending on the underlying authority for the agreement. The USPTO is authorized to engage in the various agreements described below:

1. 15 U.S.C. 1525, which provides that the Department of Commerce may enter into joint projects with nonprofit, research, or public organizations on matters of mutual interest with costs equitably apportioned;
2. 35 U.S.C. 2(a)(2), which provides that the USPTO may disseminate to the public information with respect to patents and trademarks;
3. 35 U.S.C. 2(b)(6), which provides that the USPTO may use an international organization to perform functions on its behalf; and
4. 35 U.S.C. 2(b)(11), which provides that the USPTO may conduct programs or studies regarding domestic and international intellectual property law and the effectiveness of intellectual property protection domestically and throughout the world.

It is anticipated that any agreement(s) will be structured as either a Joint Project Agreement or a Cooperative Agreement. It will need to be clear in your submission which type of agreement you intend to pursue.

Joint Project Agreements, which are under the authority of 15 U.S.C. 1525, require substantial participation on the USPTO's part as well as an equitable distribution of costs, though the offeror's share of costs may be paid by a third party or parties. Funds provided by the USPTO are to pay for actual costs only; generally, there may be no element of profit in the USPTO's payment to you.

Cooperative Agreements entered into under the USPTO authorities listed above do not require an equitable distribution of costs but do involve substantial involvement between the USPTO and the recipient.

## SECTION B: STATEMENT OF OBJECTIVE

The USPTO, located in Alexandria, Virginia, is an independent operating agency within the Department of Commerce, subject to the policy direction of the Secretary of Commerce. The USPTO is the principal agency in the Executive Branch of the Federal Government responsible for the administration of intellectual property laws, including those relevant to the granting of patents and the registering of trademarks, for the promotion of intellectual property systems as a means of protecting economic prosperity.

The mission of the USPTO is: To foster innovation and competitiveness by providing high quality and timely examination of patent and trademark applications, guiding domestic and international intellectual property policy, and delivering intellectual property information and education worldwide.

As part of its mission, one of USPTO's top strategic goals is to "*Improve Intellectual Property Protection and Enforcement Domestically and Abroad."* The following objectives are key to achieving this strategic goal and to strengthening the nation's ability to compete in an increasingly competitive and globalized business environment.

- **Support efforts and initiatives aimed at strengthening intellectual property (IP) protection and curbing theft of IP.**

- **Continue efforts to develop unified standards for international IP practice.**

- **Foster innovation and competitiveness by delivering IP information and education worldwide.**

The USPTO is seeking proposals that are consistent with the relevant provisions of P.L. 111-8 and whose end results are tied to furthering USPTO's mission and strategic vision. In order to provide some guidance, the following are examples of programs that would assist in achieving USPTO's goal of improving international intellectual property protection:

- Intellectual Property Awareness seminars conducted abroad targeting the general public and subject matter experts.

- Conferences for foreign government officials on intellectual property topics, such as increasing awareness and education on the benefits of stronger IP protection and enforcement; assisting developing and least developed countries with the legal framework for the protection and enforcement of intellectual property rights; the protection and promotion of cultural expression; and exchanging best practices on topics such as technology transfer, IP administration (e..g., patent and trademark examination) and the enforcement of intellectual property rights.

- Studies regarding international intellectual property law and the effectiveness of intellectual property protection throughout the world.

For more information on USPTO's mission and strategic vision, see

http://www.uspto.gov/web/offices/com/strat2007/stratplan2007-2012.pdf

**SECTION C: INSTRUCTIONS TO OFFERORS**

The following information is requested:

1. A statement describing how the organization meets or intends to meet the initial eligibility requirements (e.g. non-profit status, successful audit, previous

experience). Proof of eligibility should be attached or described in sufficient detail. Such description is limited to one (1) page plus any necessary attachments.

Audit is herein defined as an independent assessment of your financial records in accordance with Generally Accepted Auditing Standards (GAAS) or Generally Accepted Government Auditing Standards (GAGAS).

Offerors must demonstrate their non-profit status by proving exclusion from U.S. federal taxes or foreign equivalence.

2. A description of the programs (i.e. policy study, conference, other development program) that the organization has an interest in conducting. Summaries should include as much of the following information as possible: The program type, topic, purpose, audience, objective, measurements for success, and price. Such summaries are limited to three (3) pages each and should include a statement as to whether a joint project agreement or cooperative agreement is preferred.

3. A price breakdown for each program in sufficient detail to allow the USPTO to assess cost reasonableness. Such price breakdowns are limited to one (1) page per program. Proposals for joint project agreements should address the amount and type of shared contribution your organization will provide.

4. A maximum of three contacts/references where the offeror has provided similar services. Include the company/agency name, point of contact, telephone number, fax number and e-mail address. If you do not have information on at least 2 projects that you can submit, you need to state this circumstance clearly in your proposal. Also include a brief description of the services performed and price magnitude.

Oral Presentations

Offerors are advised that the Government may choose to conduct oral presentations as part of the evaluation process. This decision will be made subsequent to receipt of proposals.

Basis of Award

Offerors are advised that the Government intends to make award on the basis of initial proposals without conducting discussions of such proposals. However, the Government reserves the right to conduct discussions if determined to be useful by the selection committee. Therefore, offerors are advised to submit their most favorable terms and conditions in their initial proposal.

Period of Performance

The offeror shall indicate and fully explain the period of performance for each program/ project suggested. The Government reserves the right to negotiate the period of performance for any proposed program or project.

Proposal Submissions

Proposals shall be submitted electronically no later than 5:00 PM Eastern Standard Time (EST) July 15, 2009. Questions from prospective offerors shall be submitted in writing to the Point of Contact noted below no later than 5:00PM EST June 23, 2009. Questions received after 5:00 PM EST June 23, 2009 will not be considered nor receive a response. USPTO will provide responses to the questions by 5:00 PM EST July 1, 2009.

Questions and proposal submissions regarding this Request for Proposals should be sent electronically to the following Point of Contact:

John Bardwell
Office of Procurement, USPTO
John.Bardwell@USPTO.gov
(571) 272-6567 (Office)

## SECTION D: EVALUATION OF PROPOSALS

Proposals will be evaluated based on the following criteria, listed in descending order of importance.

1 Relevance
Offerors must explain how the proposed project relates to the Agency's mission, strategic vision, and goals, as listed above. The projects that are most relevant are most likely to be funded.

2 Value
The Agency is looking to receive the greatest value for its money. Programs that deliver the greatest results for the lowest price will be considered the highest value. This is not to imply that the Agency is not looking to fund agreements with large dollar values, only that the results gained should relate positively to the price.

3 Experience
Offerors with more experience performing relevant projects will be rated higher than offerors with less experience. Often confused with past performance, experience is *what* an offeror has done, while past performance is *how well* an offeror has done it.

4 Past Performance

Offers will be evaluated on the relevance and quality of the past performance and experience of the offeror as it relates to the probability of successful accomplishment of work in accordance with the RFP. The Agency reserves the right to contact references provided as well as any other source for information regarding an offeror's past performance.

Finally, all prices will be examined to ensure that they are fair and reasonable. They will also be reviewed to ensure that the project can be performed for the price given and that the offeror truly understands the task it is proposing.