



**REQUEST FOR PROPOSALS:
March 8, 2017**

**PERIOD OF PROPOSAL SUBMISSION ENDS:
April 3, 2017**

ABOUT PROPOSALS. The U.S.-China Economic and Security Review Commission (hereafter “the Commission”) invites submission of proposals to provide a one-time unclassified report on Chinese entities’ use of the Foreign Sovereign Immunities Act (FSIA).

ABOUT THE COMMISSION. The Commission was established by Congress in 2000 to monitor and report to Congress on the economic and national security dimensions of the United States’ trade and economic ties with the People’s Republic of China. Further details about the Commission are available on its website at: www.uscc.gov.

The Commission solicits this research pursuant to its Congressional mandate (contained in P.L. 113-291, Section 1259B), which states, “The Commission ... shall investigate and report ... on...”

“(B) The qualitative and quantitative nature of the transfer of United States production activities to the People’s Republic of China, including ...the economic security of the United States, and employment in the United States...”

“(D) Foreign investment ...by the People’s Republic of China in the United States, including an assessment of its economic and security implications...and foreign activities by financial institutions in the People’s Republic of China.”

The report’s key research requirements are:

1. **Explain the legal foundations for Chinese entities claiming sovereign immunity in U.S. courts.** What are the key features of the Foreign Sovereign Immunities Act of 1976 (FSIA)? How does the FSIA address commercial activity of foreign states? Are there any exceptions? How is ownership defined under FSIA, and does this definition adequately capture the complexity of some Chinese corporate structures? Under the FSIA, which legal entity is considered to be the ultimate responsible party or owner of an asset potentially covered by the immunity, engaging in commercial activity? What legal precedents have been set by other foreign companies claiming sovereign immunity? Are these cases materially different from the recent claims by Chinese firms?

2. **Assess how the FSIA has been utilized by Chinese entities.** How have Chinese companies utilized the FSIA to avoid prosecution in U.S. courts? In those cases where courts have ruled that Chinese companies are foreign government entities or are operating on behalf of the state and entitled to sovereign immunity, which factors, circumstances, and legal interpretations have been instrumental in the courts' findings? What are the long term implications for U.S. economic interests of Chinese entity's use of sovereign immunity claims?
3. **Evaluate the broader legal landscape governing the activities of Chinese state-owned enterprises (SOEs) or those potentially eligible for immunity under the FSIA in the United States.** What U.S. laws focus specifically on the activities of foreign government-owned or -controlled commercial entities? Are there any gaps in existing U.S. laws or regulations that may allow government-owned or -controlled commercial entities to act ways that distort trade and disadvantage U.S. competitors? If so, how should U.S. laws be adjusted?

The report should include an **executive summary** of the report's key findings; a **brief overview of the sources and analytic methodology used for the report**; and a **brief explanation of the scope and limitations of the report**.

Additional Requirements:

1. Prior to the award of any contract, the contractor must be registered in the federal System for Award Management (SAM).
2. Once the Commission selects a contractor for this project, and a contract is signed, public notice of this may be made on the Commission's website.
3. The Commission's goal is to have a report prepared for review in a timely fashion. In ordinary circumstances, once the Commission selects a contractor and a contract is signed, a draft report must be submitted to the Commission for review no later than 90 days from the date the contract is signed. The Commission will then endeavor to provide comments and requests for adjustments within 30 days; subsequently, the final report must be submitted within 30 days of formal receipt of the Commission's comments. The Commission recognizes, under certain circumstances, a contractor may wish to have more time to prepare the first draft of the report under the contract. The contractor, in their contract proposal, should stipulate the time frame for submission of the draft report. It is to be understood; however, that time is of the essence in completing research contracts for the Commission.
4. As work on the report progresses, the Commission's Research Director shall act as the Commission's representative in monitoring the progress, quality, and responsiveness of the report to the major issues of concern identified in this Request for Proposals (RFP). The Research Director shall, on request to the contractor, be

entitled to informal briefings on the status of the research work and to readings of the draft in progress.

5. The report shall be free of typographical errors and conform to the Chicago Manual of Style. Upon receipt of all drafts, the Commission will inspect the document for typographical errors and deviations from the Chicago Manual of Style guidelines. At the discretion of the Commission, if a draft contains excessive deficiencies, the Commission will return the draft to the contractor and request the contractor cure the draft of deficiencies within five (5) working days (not counting weekends and Federal holidays). Upon resubmission of the draft by the contractor to the Commission, should deficiencies remain, the Commission, at its discretion, will submit the draft to its copyeditor for correction, the cost of which (\$45.34 per hour) will be deducted from the final cost of the contract. The contract shall be subject to termination if the Commission deems that the work is of unsatisfactory quality.
6. At the Commission's discretion, the report procured via this RFP may be posted on the Commission's website.
7. Each organization or individual responding to this request must warrant they will perform this work solely for the Commission, and the resulting report will not be shared with other parties without the prior written consent of the Commission.
8. The Commission expects contractors to identify all personnel working on the contract, and that there will not be any delegation of responsibilities to other parties without prior written approval of the Commission.
9. After completion of the report, the Commission staff, in consultation with the contractor, will prepare a short summary of the research for posting on the Commission's website and other media. The Commission staff shall consult with the contractor in preparing said document.
10. At the discretion and request of the Commission, the contractor shall, within a year after publication of the report, agree to participate in up for two (2) separate briefings, and up to one (1) public hearing, held by the Commission, of up to two (2) hours each in the Washington, DC area, supported by at least one (1) individual affiliated with the contractor identified as "key personnel." This could include, but not necessarily be limited to, briefing the content of the research to Commissioners and Commission staff, appearing as witnesses at a public hearing held by the Commission, and briefing the content of the research to Members of Congress and/or their staff. No additional remuneration will be provided to the contractor for these briefings or a hearing. The Commission will make a good faith effort to schedule briefings and a hearing at times that are subject to mutual agreement.

Primary Selection Criteria:

1. The Commission will determine which organization or individual responding to this request will be awarded the contract based on a comprehensive “best value” analysis of the proposals received, to include costs, technical value, and ability to complete the work satisfactorily and on time, and past performance with the Commission, if applicable.
2. The primary weighting criterion in selection shall be the assessed qualifications and ability of an organization or individual to address the fundamental research points enunciated above (“key research requirements”).
3. The cost and amount of time necessary to complete the report will also be considered as criteria in the selection process.

Proposal submissions should include:

1. A statement of the applicant’s relevant qualifications to satisfy the terms of this RFP, to include curricula vitae for personnel intended for work on the project.
2. Identification of the principal researchers who will be responsible for the preparation of the report. It is understood that the designation of the researchers is a critical element of the proposal, and any changes regarding which individuals will be involved in the report’s preparation must be approved by the Commission in advance and in writing.
3. A description of the research methodology the applicant proposes to employ. In describing methodology, the submission should provide detailed descriptions of the sources and methods that will be used to research the report’s topic and the extent to which Chinese language sources, if any, and other primary materials will be used.
4. A list of any entities for whom you have conducted research or provided consulting services in the past. The Commission understands you may be limited in providing such information by confidentiality agreements.
5. An estimate of the time the applicant will need to complete the required work.
6. The price the applicant will charge to the Commission to complete the work set forth in this RFP.

Organizations and individuals wishing to submit a proposal in response to this RFP must ensure that the response arrives at the location noted below by **NOON (EST) on April 3, 2017**, or it will not be accepted or considered.

Electronic submissions are acceptable.

Proposals, as well as inquiries or any other correspondence related to this matter, should be directed to:

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