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City of Seattle

Public Defense Services - Request for Proposals

May 5, 2004

TABLE OF CONTENTS

INTRODUCTION AND OVERVIEW	1
PURPOSE	1
BACKGROUND	1
FUNDING AVAILABLE	1
PERIOD OF PERFORMANCE	1
PROPOSAL PROCESS	2
RFP COORDINATOR	2
DRAFT RFP SCHEDULE	2
PROPOSERS CONFERENCE	2
PROPOSAL SUBMITTAL	3
GENERAL GUIDELINES AND REQUIREMENTS	3
SELECTION PROCESS	6
PROPOSAL REVIEW PROCESS	6
MOST FAVORABLE TERMS	6
SELECTION CRITERIA	6
CONTRACT NEGOTIATIONS	6
APPEAL PROCESS	7
SCOPE OF SERVICES	8
GENERAL DESCRIPTION	8
SCREENING	8
REPORTING	8
ATTORNEY CONFLICT	9
EXPERT WITNESS	9
TWENTY-FOUR HOUR TELEPHONE ACCESS	9
ESTIMATED WORKLOAD – PRIMARY DEFENDER	9
SEATTLE MENTAL HEALTH COURT	10
ESTIMATED WORKLOAD – SECONDARY DEFENDER	11
MINIMUM QUALIFICATIONS	12
MINIMUM QUALIFICATIONS	12
LICENSING AND PRIOR EXPERIENCE	12
PROPOSAL REQUIREMENTS	14
GENERAL OVERVIEW/ EXPERIENCE IN PROVIDING PUBLIC DEFENSE SERVICES	14
CONTRACT PERFORMANCE	14
FINANCIAL MANAGEMENT AND STABILITY OF FIRM	14
DELIVERY OF SERVICES	15
ESTIMATED COST TO PROVIDE SERVICES	19
REFERENCES	21
REQUIRED ATTACHMENTS	22

INTRODUCTION AND OVERVIEW

Purpose: The City of Seattle’s Office of Policy and Management (OPM) is seeking proposals from law firms that can provide effective counsel to indigent defendants charged in Seattle Municipal Court with misdemeanor and gross misdemeanor crimes. Proposals meeting the requirements of this RFP will be accepted from any law firm (e.g. a partnership, limited liability corporation, or non-profit agency) hereinafter referred to as “firm.”

Background: The City of Seattle is responsible for providing indigent defense services to persons charged with misdemeanor and gross misdemeanor crimes who meet certain financial eligibility criteria. Seattle currently contracts (through the King County Office of Public Defense) with three law firms to provide public defense services. Seattle is seeking to contract directly with a single law firm to handle approximately 80-85% of the total case load (5,000 to 7,000 cases) and be the primary public defender (Primary Defender) for the City. In addition, Seattle is seeking to contract with a second law firm (Secondary Defender) to handle approximately 15-20% of the case load (700 to 1,000 cases) comprised mainly of cases for which the primary firm has a conflict of interest.

Data/Stats on 02/03 Workload *Note: will fill in for final draft*

Funding Available: This is a competitive bid process. Up to \$X (*will fill in for final draft*) is available to fund a contract with the Primary Defender to handle an estimated caseload of 5,400 cases, Seattle Mental Health Court and 2 calendars (see page 8, “Scope of Services” section for further detail). Up to \$Y (*will fill in for final draft*) amount is available to fund a contract with the Secondary Defender to handle an estimated caseload of 950 cases. Firms may submit bids either at or less than the amount of funding available. Proposals that exceed the available funding limits will not be considered. Actual funding for these contracts will be determined during contract negotiations and will be dependent on the actual workload and the amount of funds provided in the 2005 City budget.

Period of Performance: The period of performance for the Primary and Secondary Defender contracts will be from January 1, 2005 through December 31, 2007. At the conclusion of the contract period, the City may choose to negotiate a renewal of the contract or reissue a Request for Proposals for public defense services.

PROPOSAL PROCESS

RFP Coordinator

The RFP Coordinator is:

Catherine Cornwall, Senior Policy Analyst
Office of Policy and Management
600 Fourth Ave. Floor 6/P.O. Box 94745
Seattle, WA 98124-4745

Telephone: 206-684-8725

Email: catherine.cornwall@seattle.gov

Agency website: <http://www.seattle.gov/financedepartment/>

Fax: 206-233-0085

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OPM reserves the right to change the dates as needed.

Draft Request for Proposals Issued	May 5, 2004
Public Meeting to share input on draft RFP	May 14, 2004
Request for Proposals Issued	May 24, 2004
Proposers Conference	June 4, 2004
Due Date for Proposals	July 6, 2004 Must be received by 4pm. Late proposals will not be accepted
Notification of Awards Issued	July 30, 2004
Deadline for Appeals	August 9, 2004
Complete Contract Negotiations	September 30, 2004
Contract Period	January 1, 2005 – December 31, 2006

Proposers Conference

To assist firms in the preparation of their proposals, a proposers conference will be conducted on June 4, 2004. This meeting will be your best opportunity to get your questions answered. If you are unable to attend this meeting, you may submit questions in writing to Catherine Cornwall.

DRAFT

No questions after 4 pm on June 4, 2004 will be accepted. Questions will be documented, answered in written form, and posted on the Department of Finance website (www.seattle.gov/financedepartment/). Should any changes need to be made in the RFP, an amendment will be published and posted on the website.

Proposal Submittal

Proposals must be typed or produced by a word processor using a 12 point type size. All pages must be numbered sequentially. Questions must be answered in the order presented in the RFP.

An original and ten (10) copies of each proposal must be submitted to:

Seattle Office of Policy and Management
ATTN.: Catherine Cornwall
600 Fourth Avenue, 6th Floor
P.O. Box 94745
Seattle, WA 98124-4745

Proposals may be mailed or delivered in person but must be received at the above address **no later than 4 pm, Tuesday, July 6, 2004**. Late proposals will not be accepted. Faxed or emailed copies will not be accepted.

General Guidelines and Requirements

- OPM reserves the right to reject any or all proposals if applications are not responsive to the outcomes and other requirements stated in this RFP.
- OPM reserves the right to revise the RFP schedule, to revise the RFP and/or to issue amendments to the RFP. OPM reserves the right to cancel or to reissue the RFP in whole or in part prior to the execution of a contract. OPM also reserves the right to refrain from contracting with any and all firms and/or to contract with a qualified firm at a date later than the date specified in this RFP. The release of the RFP does not compel OPM to enter into any contract pursuant to the RFP.
- If a firm wishes to withdraw its response, it must submit a written request signed by an authorized representative of the firm to the RFP Coordinator.
- Clarification of responses: As part of the evaluation process, and at the discretion of OPM staff and/or the review panel, firms may be asked to clarify specific points in their respective responses. OPM reserves the right to request oral presentations from applicants.
- OPM may attempt to negotiate a contract with the firm or firms selected on terms that it determines to be fair and reasonable and in the best interest of the city. If OPM is unable to negotiate such a contract with any one or more of the firms first selected on terms that it determines to be fair and reasonable and in the best interest of the City, negotiations with any one or more of the firms shall be terminated or suspended and another qualified firm or firms may be selected in accordance with the procedures set forth in this section. If OPM decides to continue the process of selection, negotiations shall continue with a qualified firm or firms

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in accordance with this section at the sole discretion of the legislative authority until an agreement is reached with one or more qualified firms, or the process is terminated by OPM. The process may be repeated until an agreement is reached.

- Any contract resulting from this RFP will be between the City of Seattle, Office of Policy and Management, and the firm. It is required that the selected firm will provide all services and will not subcontract or otherwise assign any of the work awarded through this contract without formal, written authorization from the contract administrator.
- The selected firms will be required to maintain books, records, documents, and other evidence directly related to performance of the work and financial records in accordance with generally acceptable accounting procedures. All such records must be retained for a period of seven years after completion of work. The City of Seattle, or any of its duly authorized representatives, shall have access to any such books, records and documents for inspection, audit and copying.
- Firms participating in this RFP shall not coordinate or discuss their bids to provide legal services to King County. Federal and Washington State antitrust laws make it per se illegal for such competitors to agree to fix prices, reduce output, allocate customers, or rig bids. See 15 U.S.C. § 1; RCW 19.86.030. Any agreement to, for example, coordinate bids, refuse to bid, or establish the rates at which services would be offered, would be a per se violation of the antitrust laws and could subject the participants to criminal penalties. *See Federal Trade Commission v. Superior Court Trial Lawyers Association*, 493 U.S. 411 (1990) (Antitrust laws prohibit lawyers from colluding as to the amount they would charge the District of Columbia government for their services.)
- All proposals and materials submitted under this RFP shall be considered public documents at the time of the proposal deadline and may be reviewed by appointment by anyone requesting to do. If a Proposer considers any portion of his/her Proposal to be protected under Washington State law, the Proposer shall clearly identify each such portion with words such as “CONFIDENTIAL,” “PROPRIETARY” or “BUSINESS SECRET.” If a request is made for disclosure of such portion, the City will determine whether the material should be made available under Washington State law. If the material does not appear to be exempt from public disclosure under the law, the City will notify the Proposer of the request and allow the Proposer five (5) days to take whatever action it deems necessary to protect its interests. If the Proposer fails or neglects to take such action within said period, the City will release the portion of the Proposal deemed subject to disclosure. By submitting a Proposal, the Proposer assents to the procedure outlined in this paragraph and shall have no claim against the City on account of actions taken under such procedure.
- Firms which currently provide defense services to the City of Seattle but are not selected as the Primary or Secondary Defenders may need to lay off staff who work in their Seattle misdemeanor unit due to the loss of work on City misdemeanor cases. If these firms lay off staff who worked in their Seattle misdemeanor unit, the firms are requested to submit a layoff list with the names of the staff that will be laid off to the firms selected to serve as the City's Primary or Secondary Defenders and the City. The information should include the position held by the person (e.g. attorney, social worker, investigator, etc.), the dates of service with the firm and in the firm's Seattle misdemeanor unit, and contact information including an

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address and phone number. If any employee requests that their contact information not be included, the firm is not requested to submit such information.

The Primary and Secondary Defenders will keep the layoff list of names of people who were laid off for 6 months from the award of the contract. If openings in the misdemeanor unit of the Primary or Secondary Defenders occur during the first 6 months after the contract is awarded, they will give first consideration to (but are not required to hire) the people on the lay-off list. First consideration shall include an offer to interview people on the layoff list by appropriate classification. The requirement to maintain the layoff list and offer interviews to people on the layoff list is subject to audit by the City.

- The firm that is designated as the Primary Defender and the firm that is designated as the Secondary Defender are required sign labor peace/labor harmony agreements between the firm and any labor organization that has informed the City or the firm that it seeks to represent employees at the firm. The labor peace/labor harmony agreements will be for the purpose of establishing ground rules for the conduct of the firm and the union during any union organizing effort and collective bargaining process that will guarantee uninterrupted services and to avoid picketing and/or other economic action at the firm that might adversely affect the interests of the City.

SELECTION PROCESS

Proposal Review Process

A Review Panel will evaluate the proposals submitted. Proposals will be rated based upon the criteria and requirements contained in this RFP. If additional information or clarification is requested by the panel, City staff may contact the law firms to obtain this information. The Review Panel may also choose to interview one or more of the law firms. The review panel will then make a recommendation to the Mayor who will select the Primary and Secondary Defenders. Staff may conduct telephone interviews as needed to clarify information provided in a firm's response.

Most Favorable Terms

The City reserves the right to make an award without further discussion of the proposal submitted. Therefore, the proposal should be submitted on the most favorable terms. If awarded, vendors should be prepared to accept the terms they proposed for incorporation into a contract resulting from this RFP.

Selection Criteria

Proposals will be rated according to the following criteria.

Criteria	Maximum Points
Experience in Providing Defense Services, Contract Performance, Financial Management	35
Proposed Delivery of Services	35
Proposed Cost to Provide Services	20
References	10
Total Points	100

Contract Negotiations:

OPM intends to complete contract negotiations with the vendor by September 30, 2004 and execute all contracts by January 1, 2005. In the event of a negotiation impasse with any vendor, OPM reserves the right without penalty and at its sole discretion to:

1. Reject the firm's proposal and select the next preferred firm, or
2. Take no further action to continue award of contracts under this RFP, or
3. Reissue the RFP with any changes OPM deems appropriate.

APPEAL PROCESS

OPM will notify all proposers in writing of the status of their proposal(s). Written appeals may be made to the RFP Coordinator: Catherine Cornwall, Senior Policy Analyst, Office of Policy & Management, 600 Fourth Avenue, 6th Floor, P.O. Box 94745, Seattle, WA 98124-4745 within ten business days of official notification of awards. OPM will respond to appeals within twenty business days. An appeal must clearly state a rationale based on one or more of the following criteria:

- Violation of policies or guidelines established in the Request for Proposals
- Failure to adhere to publicized criteria and/or procedures in carrying out the RFP process.

Protest Procedures:

1. Firms protesting this process must follow the procedures described herein. Protests that do not follow these procedures will not be considered. This protest procedure constitutes the sole administrative remedy available under this RFP.
2. All protests must be in writing, and signed by the protesting party. The protest must state all facts and arguments on which the protesting party is relying. All protests shall be addressed to the RFP Coordinator.
3. Only protests setting forth an issue of fact concerning a matter of bias, discrimination, conflict of interest, or non-compliance with procedures described in the RFP shall be considered. Protests based on non-procedural matters will not be considered.
4. In the event a protest may affect the interest of other firms who submitted a RFP, such firms will be given an opportunity to submit their views and any relevant information on the protest to the RFP Coordinator.
5. Upon receipt of a protest, a protest review will be conducted by the Director of the City's Contracting Services Division/Department of Executive Administration, to review the RFP process. This protest review is not a review of responses submitted or the evaluation scores received. The purpose of the protest review is to insure that procedures described in the RFP document were followed, all requirements were met and all firms were treated equally and fairly.
6. Protests will not be accepted prior to selection of the successful firms. Protests must be received between August 2, 2004 and August 9, 2004. Protests may be sent by mail, fax or be hand-delivered. They must be received by OPM **no later than 4 pm, August 9, 2004.**

The protest will be reviewed as soon as possible to evaluate the protest and respond. If additional time is required, the protesting party will be notified of the delay.

SCOPE OF SERVICES

General Description: The Primary and Secondary Defenders will provide legal representation to indigent defendants charged with misdemeanor and gross misdemeanor crimes in Seattle Municipal Court. Representation will be provided for each of these defendants from the initial appearance through the end of the case (including trial, sentencing, post-conviction review and any appeals to Superior Court or Washington Appellate Courts). The Primary Defender will provide defense services at in-custody and out-of-custody arraignment (intake) hearings and will be available to talk and meet with indigent defendants who are in-custody in a King County Jail Facility (Seattle or Kent locations).

Some Seattle misdemeanor defendants who are in-custody may be housed at a Yakima County corrections facility for a portion of their stay. If a defendant is sent to Yakima County, attorneys may meet with their clients in King County before the defendant is transferred and after the defendant is brought back (defendants will be brought back several days prior to the Court hearing). Attorneys may also request that clients be brought back from Yakima to King County, so they may meet with them in-person. In addition, attorneys may use video conferencing (currently located in the Seattle Justice Center) to conference with their clients and may also contact them by phone. Seattle inmates housed at Yakima County are able to make free phone calls to their attorneys. Because these other options are available, it is not anticipated that attorneys will need to go to Yakima to meet with their clients.

Screening: Determination of indigency for eligibility for appointed counsel for this contract will be determined by an independent screening process established by the City pursuant to RCW 10.101.010 and 10.101.020. The City will be responsible for the costs and operation of the screening process. Should the Primary or Secondary Defender determine that a defendant is not eligible for assigned counsel, the firm will so inform the court and either move to withdraw from the case or establish a recoupment process.

Reporting: The Primary and Secondary Defenders will be required to provide the City with monthly electronic reports in spreadsheet format on all closed cases. These reports must contain:

- Defendant's name
- Cause number(s)
- Criminal charges filed
- Disposition of each charge
- Number of court hearings
- Bench Trial, Jury Trial, Plea or Dismissal
- Whether an appeal was filed
- Attorney(s) name(s)
- Date case assigned
- Date case closed
- Hours spent by attorney
- Hours spent by support staff

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The City of Seattle, or any of its duly authorized representatives, shall have access to any such books, records and documents for inspection, audit and copying. The report is due on or before the twentieth (20th) day of the following month for services of the prior month. Payment may be withheld if reports are not submitted on time.

Attorney Conflict: In the event the Primary Defender must withdraw from a case because of a conflict of interest, the Secondary Defender shall be responsible for handling the case. If the Secondary Defender also has a conflict of interest, then private counsel will be appointed at City expense. The Primary Defender shall be responsible for checking for conflicts and identifying if a conflict exists. Both the Primary and the Secondary Defenders shall have a written policy which explains how they define conflict cases. The Primary and the Secondary Defenders shall perform a conflicts check before any substantial work is done on the case. No payment shall be made for work done on cases which are subsequently identified as conflicts (with the exception of cases in which the client obtains a new attorney at his own expense or through a request to the Court).

Expert Witness: In the event an expert witness is needed, the attorney shall make a request for approval to the Court. If the Court approves the request, the expert witness fees shall be paid by the City.

Twenty-Four Hour Telephone Access: The Primary Defender shall provide legal advice twenty-four (24) hours each day, seven days per week via beeper access for critical stage advice to defendants during the course of police investigations and/or arrests.

Estimated Workload – Primary Defender: The caseload numbers are estimates only and will be refined during the contract negotiations. Calendar schedules are subject to change by the Court and may be refined during contract negotiations. All numbers are on an annual basis. The City is estimating the workload to be as follows.

- 5,400 cases.¹ It is estimated that 20% of these cases will have probation review hearings.
- 76 appeals
- The Primary Defender will staff the following calendars:
 - In-custody arraignment - 6 days per week (Monday – Saturday). In 2003, an average of 274 people per week were arraigned. At least two attorneys and one support staff are needed to staff these full-day calendars. Sometimes, a third attorney may be required to handle the volume of defendants. Services provided at this calendar shall include representation of all otherwise unrepresented defendants.
 - Out-of-custody intake (arraignment) - 3 half days per week (Tuesday evening, Wednesday evening and Friday morning). At least two attorneys and one staff person are needed to staff these half-day calendars.

¹A case is any one charge or series of related charges filed against one defendant/respondent in a single citation, complaint or information, or in the case of misdemeanors, a series of cases set for one court hearing, that will ultimately lead to one disposition. A completed case involves all necessary legal action from arraignment through disposition. This includes probation review hearings, the filing of a notice of appeal upon the client's request, application to proceed in forma pauperis on appeal, and a motion for appointment of appellate counsel. A case in which the defendant has an outstanding warrant will not be considered a new case when that warrant is quashed or served and new hearing dates are set.

- o Seattle Mental Health Court: 1.5 FTE attorneys and 1 FTE social worker

Also for your information, attached is a template with the Court's hearing schedule (*will fill in for final RFP*).

Seattle Mental Health Court

The primary public defense firm will staff the Seattle Mental Health Court (MHC). The MHC uses a therapeutic jurisprudence approach wherein treatment needs are balanced with public safety interests. It is based on a team approach in which the judge, attorneys, probation staff and mental health professional (court monitor) all work collaboratively, sharing information to determine what type(s) of intervention and diversion can be most helpful to the defendant, victim and community.

The MHC model uses an individualized, defendant-based, long-term, problem-solving approach in which the assigned public defender remains the Attorney of Record for as long as the defendant participates in MHC. This commitment includes keeping abreast of the defendant's participation in and compliance with the MHC Conditions of Release or Sentence, appearing with the defendant at scheduled reviews or other hearings, and being assigned to the defendant for any new cases in the MHC filed with Seattle Municipal Court.

Currently the MHC has scheduled hearings Monday through Thursday afternoons (and Fridays at 10:30 AM for new arrests/arraignments and emergencies). Hearing types include the following: MH In-Custody Arraignment, MH Out-of-Custody Arraignment, MH Pre-Trial Hearing, MH Sentencing, MH Review, Competency Hearing, Restoration Hearing, Contested Competency Hearing and Status Hearing. Specific dates and times of the calendar may change as the Court's needs change.

The Court's intent is to have the assigned defender attorneys work intensively and collaboratively with defendants referred to the MHC and with MHC team members in order to meet MHC goals with an emphasis on (1) assuring expeditious integration of referral and assessment, and (2) addressing appropriate referrals to the MHC prior to the scheduled in-custody arraignment.

Seattle Mental Health Court Population Profile

The population served by the MHC comprises mentally ill misdemeanants in the Seattle Municipal Court. For the year 2000, 464 individuals (with 721 cases); for the year 2001, 504 individuals (with 700 cases); for the year 2002, 453 individuals (with 561 cases); and for the year 2003, 679 individuals (with 875 cases) were referred to the SMC MHC. Based on the referral count for January through March 2004, the Court projects that more individuals will be referred to MHC during 2004.² Research data presented in the MHC evaluation indicates that more than half (52%) of the defendants had a primary diagnosis of chronic psychosis. The remaining diagnoses and proportions are as follows: mood disorder (28%), brief psychosis (18%) and delusional disorder (2%).

²All types of misdemeanor offenses are "eligible" for referral to MHC. However, DV offenses are screened by the city attorney's DV unit for determination as to which 'track' the case will follow.

DRAFT

Annual statistics from 2003 include the following demographic characteristics of MHC defendants: 73% were male, 65% were homeless; 21% were age 18 – 29, 75% were age 30-59 and 4% were age 60 or older; 62% were referred at arraignment and 50 % began MH services with the MHC referral. The 2001 MHC Evaluation (available on the court's website at <http://www.cityofseattle/net/courts/comjust/mh.html>) found that all defendants were successfully referred to MH treatment and the majority of defendants had accessed services within 1 day.

Mental Health Court Scope of Services

- The defense provider and the attorneys assigned to MHC shall subscribe to and endorse the MHC goals, philosophy and principles, including working collaboratively with the MHC team and SMC probation and the on-going program development team.
- The defense provider shall assign specific attorneys who are experienced in working with mentally ill misdemeanants to the MHC for a period of two (2) years to assure consistency of experienced staff. The attorneys assigned to MHC shall continue the assignment on cases of MHC defendants through the length of jurisdiction (up to 2 years) and appear for all hearings, including review hearings, status hearings, etc.
- The defense provider and the attorneys assigned to MHC shall assure (through developed protocols) expeditious integration of referral and assessment and appropriate referrals to the MHC *prior to* arraignment and without undue delay in the schedule for arraignment. This shall include MHC referrals from the night and weekend calendars.
- The contracted defense provider and the attorneys assigned to MHC shall address all hearings as defined in RCW 10.77 for MHC defendants.
- The contracted defense provider (and the attorney assigned to MHC) shall participate as required by SMC for future and on-going evaluation efforts and in MHC program development processes as scheduled.

Estimated Workload – Secondary Defender

The caseload numbers are estimates only and will be refined during the contract negotiations. All numbers are on an annual basis. The City is estimating the workload to be as follows:

- 950 cases³ - Approximately 20% of these cases will have probation review hearings.
- 14 appeals

³A case is any one charge or series of related charges filed against one defendant/respondent in a single citation, complaint or information, or in the case of misdemeanors, a series of cases set for one court hearing, that will ultimately lead to one disposition. A completed case involves all necessary legal action from arraignment through disposition. This includes probation review hearings, the filing of a notice of appeal upon the client's request, application to proceed in forma pauperis on appeal, and a motion for appointment of appellate counsel. A case in which the defendant has an outstanding warrant will not be considered a new case when that warrant is quashed or served and new hearing dates are set.

MINIMUM QUALIFICATIONS

All proposals must include the following information as set out in the next three sections:

- Minimum Qualifications
- Proposal Requirements, and
- Required Attachments.

Proposal Cover Page: Must indicate whether the firm is applying to be the Primary and Secondary Defender or the Secondary Defender only. Also include the following information in your cover page:

- Name of firm
- Address and Phone
- Director (include phone number and email address)
- Firm contact information if different than above
- If applicable - Board Chair (include phone number and email address)
- Indicate whether the firm is applying to be the Primary (and Secondary) Defender or the Secondary Defender only. **Firms applying to be the Primary Defender must also apply for the Secondary Defender.**

Minimum Qualifications: The following requirements must be addressed in the proposal:

- Proposer must be a law firm (e.g. a partnership, limited liability corporation or non-profit agency).
- The law firm must be able to demonstrate that they have practiced criminal defense law in Washington State for at least five years. Firms submitting proposals to be the Primary Defender must also be able to show they represented clients in at least 3,000 assigned criminal cases (excluding defendants represented at a first appearance calendar) in 2003.
- Insurance: Contractors with the City of Seattle must carry industrial insurance (RCW Title 51). Attorney contractors must also maintain professional liability insurance for all acts which occur pursuant to the contract. Copies of proof of insurance must be enclosed in the applicant's proposal. *Minimum amount of insurance required will be filled in for final RFP.*

The following qualifications are required for attorneys performing under this contract. These qualifications should be acknowledged and incorporated into the proposal under this RFP.

Licensing and Prior Experience:

- Every attorney providing indigent defense services must be a licensed member of the Washington State Bar and be a member in good standing of the Bar. The firm may employ interns pursuant to Admission to Practice Rule (APR) 9. No more than 20% of the cases handled by the Primary or Secondary Defender may be assigned to interns.
- The firm's attorneys who supervise the misdemeanor attorneys must have at least three years of criminal defense experience in superior, district or municipal courts in Washington State.
- No attorney may provide services under this contract if that attorney has been removed from representation in a case for failure to perform basic services necessary to the case or to

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the client, or in any manner has been found to be ineffective on appeal by either an ethics panel or by an appellate court.

PROPOSAL REQUIREMENTS

Firms should address the following areas in their proposals:

General Overview/ Experience in Providing Public Defense Services

- Describe your firm's management structure (e.g. is your firm governed by a board of directors, executive committee, managing director, etc.).
- Is your firm a for-profit or a non-profit agency?
- Does your firm practice in areas other than criminal defense?
- How long has your firm been in existence? How many years has it practiced criminal defense law?
- Has your firm handled indigent clients? Involving what type of cases?
- How many courts does your firm currently represent defendants in? Please specify which courts and approximately how many cases you represented clients in each court in 2003.
- What type of cases (felony, misdemeanor, etc.) did your firm handle in 2002 and 2003?
- How many cases (by type) did your firm handle in 2002 and 2003? How many criminal trials and how many appeals did your firm handle in 2002 and 2003?
- How many criminal defense attorneys are currently employed by your firm?
- Does anyone employed by your firm have any conflicts of interest with any Seattle Municipal Court judge or staff?

Contract Performance

- Has your firm ever had a contract that was terminated partly or wholly for performance or has your firm ever been placed on corrective action? If yes, please identify the contract involved and describe the reason for the termination or corrective action and the outcome.
- In the last five years, has your firm had an attorney who has been removed from representation in a case by order of the court for any reason other than conflict of interest or irreconcilable differences with a client, or has in any manner been found to be ineffective in the representation of his or her clients by an ethics panel or by any court? If yes, please list the incidents and explain the circumstances and any corrective action taken.
- Describe any past instances in the last five years when an attorney of your firm has been sanctioned by any court for any reason.
- Explain the process your firm has in place for dealing with complaints made to the State Bar Association regarding attorney professional misconduct.
- For the last five years, please describe each complaint, claim or case in which an attorney associated with your firm was accused of any violation of the Rules of Profession Conduct (RPC). Please state the outcome of the complaint. Describe any corrective action taken by your firm as a result of a disciplinary finding and sanction.

Financial Management and Stability of Firm

- Funding awarded through this RFP process may only be used to serve financially indigent persons charged with misdemeanor offenses in Seattle Municipal Court. It may not be used

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to fund any other cases or projects of the law firm. Please describe how your firm would track and manage revenues and expenditures associated with this contract to ensure that funds are used solely for expenses (including pro-rated overhead) directly related to the cases that will be assigned to your attorneys through this contract.

- Please describe your firm's ability to meet program expenses in advance of reimbursement.
- Please describe your firm's accounting system.
- What types of internal financial controls are in place? When were these controls established?
- Please provide your firm's annual financial statements for 2001, 2002, and 2003, audits of the financial statements by a certified public accountant, and a copy of the accompanying management letters. If reserve accounts are not specifically called out in the financial statements, please include a copy of the year-end reports on reserve accounts for the last three years.
- If your firm is not for profit, please include a copy of the IRS form 990 (return for organization exempt from tax) for 2003.
- If any other audits have occurred in the last five years, please include a copy of those audit reports. Please note if there are any audits that will be undertaken in 2004 and whether the audit was initiated by your firm or by another agency.
- Are there any pending lawsuits that have been filed against your firm? If so, what is the amount of damages sought in the lawsuit? In the event of an adverse judgment, how would your firm pay the damages? How much would be covered by an insurance policy and how much would the firm pay out of pocket?
- Does your firm have a reserve fund or a fund balance policy? If so, what is the amount and what percentage of your total operating budget is your reserve fund? What sorts of liabilities has your firm reserved funds for (e.g. ensuring there are sufficient funds to complete cases that are assigned but not finished at the end of the year).

Delivery of Services

Please describe how you would propose delivering services to the City of Seattle. The description should be consistent with the costs shown in the next section. In your description, please address the following points:

- Please describe your firm's capacity to handle the estimated annual caseload and required services.
 - If applying to be the Primary Defender, how many additional attorneys, supervisors, and support staff would you anticipate needing to hire? How many attorneys and other staff does your firm currently employ?
 - If applying to be the Secondary Defender, how many additional attorneys, supervisors, and support staff would you anticipate needing to hire? How many attorneys and other staff does your firm currently employ?
- High quality defense is very important to the City. Describe how your firm would propose to deliver high quality indigent defense services.
 - What caseload standards would you propose for the attorneys handling these cases and why? How would you propose to use support staff (investigator, paralegal,

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- social worker and clerical)? Seattle's current caseload standard is 380 misdemeanor cases per attorney. If your proposed standards vary from Seattle's current standard please explain what impact it will have on the level and type services provided.
- Would attorneys be dedicated exclusively to defending cases in Seattle Municipal Court or would they also handle cases in other courts at the same time? If they would also concurrently handle cases in other courts, how would the Seattle misdemeanor cases be covered if the attorney was in extensive litigation on a case in another court?
 - As much as is possible, the City would like to have the same attorney represent the defendant from the start of the case (arraignment) to the end (including probation violations). How would you propose accomplishing this? Would the attorney that represented the defendant at arraignment handle the case through the rest of the process?
 - Punctuality for court hearings is very important to the City. Does your firm have a proven track record in this area? How would your firm balance the need to provide consistent representation to your client with the need to cover hearings in multiple courtrooms?
 - How would you ensure that the attorney assigned to the case receives discovery as soon after the initial appearance as possible?
 - In providing indigent defense services it is important to resolve cases in an efficient and timely manner (particularly when your clients are in-custody) while at the same time protecting the due process rights of your clients. How would you provide services to ensure that these goals were met? What services would you provide to enhance the timely resolution of cases?
 - What level of attorney supervision do you propose and why? Would the supervisory attorneys be expected to carry an active caseload and if so, what percentage of their time would be spent managing their caseload? What is the minimum number of years of criminal law experience the supervising attorneys would have?
 - Would you assign attorneys to work in Seattle Municipal Court permanently or would the attorneys rotate to other courts? How long would attorneys and supervisors be assigned to handle cases at Seattle Municipal Court before rotating to another assignment? How long would staff assigned to Seattle Mental Health Court work there before rotating to another assignment?
 - How will your firm cover absences if an attorney is unavailable (e.g. on sick leave or vacation)?
- The quality of attorneys assigned to handle the defense cases is very important to the City.
 - Describe the qualifications and experience of the attorneys your firm would assign to handle Seattle's indigent defense cases.
 - Seattle expects that more experienced attorneys would be assigned to staff the Seattle Mental Health Court and the arraignment (intake) calendars. Please specify the level of experience that attorneys assigned to Seattle Mental Health Court and the arraignment calendars would have.
 - Please state if you would use Rule 9 interns and if so, describe how you would propose using them. Please include how many Rule 9 interns you would propose using and how they would be supervised.

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- Please describe the compensation plan your firm would propose for the attorneys who would be working under this contract. Does your firm use a salary plan that links salary to experience and responsibility? If so, please describe this plan. If it is different than the Kenny Plan (please see attached plan- *will be included in final draft*) used by King County, please explain why.
- What type and how much training would be provided to the attorneys? What training around mental illness will you provide for your staff? Include training for the staff who are assigned to the MHC and the staff who are not assigned to the MHC.
- Making effective use of support staff is important to the City. Describe how staff at your firm would be used to support the attorneys.
 - What ratio of support staff (investigator, paralegal, social worker and clerical) to attorney would you propose and why? Please specify for each type of support staff you would propose using.
 - What is the relationship between the caseload standards you would propose and your firm's use of support staff?
 - What types of social workers would you assign to these cases and what would be their responsibilities?
 - If an investigation is required, at what point in the case process would you assign an investigator to start working on the case?
- Client contact is very important to the City. It is expected that attorneys will initiate contact with their clients as soon as possible after assignment of the case. At a minimum, attorneys should meet with their clients prior to each scheduled court hearing so that the attorney and client are prepared to proceed at that hearing.
 - After an attorney is assigned a case, when and how would the first attorney-client contact take place? In your response, distinguish between in-custody and out-of-custody clients.
 - What steps would you take to ensure that out-of-custody clients appear for their court dates? Has your firm ever developed a system to notify and encourage clients to appear in court? If so, describe the system and its effectiveness.
 - What systems does your firm have in place to ensure that clients can easily contact their attorneys (phone systems, pagers, email, etc.)? When clients call your firm are they able to speak with a live person if they desire or is the system completely automated?
 - What is your firm's policy on returning client calls? Do you have any minimum standards or expectations for attorneys in returning client calls?
 - What is your firm's capacity for working with non-English speaking clients? Explain in detail your firm's experience in representing non-English speaking clients.
- Effective management of cases and reporting is very important to the City. It is expected that attorneys will effectively manage their caseloads and that the Primary and Secondary Defenders will have the necessary systems in place to generate required reports and meet all of the reporting deadlines specified in the contract.
 - Please describe the case management system your firm uses to manage its cases.

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- Please attach examples of typical reports your firm uses in managing its cases (e.g. closed case reports, case allocation reports, year-end attorney case assignment reports).
 - How do you monitor the caseload for your attorneys (i.e. if you have a particular standard for how many cases an attorney may handle in a year, how do you check to see if the number of cases assigned to the attorney is within the standard?)
 - Please describe your technology infrastructure (e.g. ratio of computers to staff, etc.).
 - Do your attorneys have access to electronic legal research tools and databases (e.g. Lexis/Nexis)?
 - Seattle's Criminal Justice Information System (CJIS) requires the following minimum standards. Please state whether your firm is able to meet these standards. *Will include the standards in final RFP.*
- The City strongly believes in the importance of problem solving courts. Seattle Municipal Court was one of the first jurisdictions to implement a mental health court and is considering the implementation of a domestic violence court. Please describe your firm's experience with specialty courts such as drug court, domestic violence court or mental health court.
 - What is your firm's philosophy regarding specialty courts?
 - What types of specialty courts has your firm staffed?
 - Was your firm the primary defense firm providing staffing to these courts?
 - How many years has your firm staffed these specialty courts?
 - If your firm used to staff a specialty court but no longer does so, please explain why.

The following questions pertain to Seattle Mental Health Court (MHC). Please see page 10 for more information on MHC.

- Describe your experience in working with mentally ill misdemeanants. How were these experiences different from your work with non-mentally ill misdemeanants? Include specifics as to what programs, partnerships and/or training in working with mentally ill misdemeanants you sponsored or participated in?
 - The MHC exists as a team and includes a collaborative approach among the prosecutor, defense attorneys and other MHC staff. What does this mean for the attorneys your firm would assign to MHC? Identify experiences in which you worked with a collaborative approach with offenders, and the outcomes associated with those experiences. How will your attorneys represent the MHC defendant?
 - Describe what you would see as a successful outcome for a MHC defendant. Include the role of the public defender in that outcome. As compared to a traditional court, how would your attorneys include this role and operate from a "best interests of the defendant" standpoint in the MHC? Describe the differences this presents for a MHC defendant vs. a defendant in regular court.
 - Describe your success in dealing with and in staying in touch with homeless or difficult to reach misdemeanor offenders. Be specific and explain strategies used.
- Overall Philosophy
 - Describe your firm's general philosophy in providing indigent defense services.
 - How do you measure success for your clients?

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- If a client had multiple matters either within Seattle Municipal Court or in other jurisdictions, what sort of coordination would you provide?
 - What do you see as the defender’s role in helping clients meet their court obligations (e.g. obtain treatment)?
 - A defense attorney’s first obligation is to his client. However, there is also a need for the criminal justice agencies (court, prosecution, police and defense) to work together in order to make changes to the criminal justice system. What do you see as the defender’s role in improving the criminal justice system, identifying efficiencies, etc.?
 - What recommendations would you make for improving the City’s misdemeanor criminal justice system?
- Other
 - Please describe the standard your firm uses to determine if there is a conflict that would prevent your firm from providing defense services to a client. What steps do you take to determine if a conflict exists? Who performs the conflicts check? What type of computer system does your firm use to check for conflicts?
 - Where is your firm’s office located? If it is not in downtown Seattle near the Seattle Municipal Court, do you plan on establishing an office in Seattle? If not, how will this affect your ability to provide services?

Estimated Cost to Provide Services

Please provide your estimated cost to provide defense services to the City of Seattle based on the required scope of services as described on pages 8 - 11. Costs should be for a full year of service and should reflect 2005 rates. As part of the cost proposal, please show the following:

- Personnel Costs
- Operations and Maintenance (O&M) Costs (rent, supplies, phones, computers, etc.)
- Overhead (e.g. percentage share of firm’s director) – please describe the methodology used to allocate the percentage share of overhead (e.g. it’s based on percentage share of employees, dollars, cases, etc.). Please identify what charges are included in the overhead.
- Other (please specify)

PRIMARY DEFENDER

Estimated 2005 Cost of Service for Seattle Misdemeanor Cases

Personnel	Number (FTE⁴)	Total Salaries	Total Benefits	Total Cost
Attorneys for arraignment/intake calendars				
Support staff for calendars (as noted above)				
Mental Health Court Attorneys				

⁴ FTE stands for full time equivalent (e.g. 2 half time positions would equal 1 FTE)

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Mental Health Court Support Staff				
Attorneys to cover cases (assume 5,400 cases)				
Paralegals				
Investigators				
Social Workers				
Clerical Staff				
Direct Supervision				
Other Personnel Costs				
Sub-Total Personnel Costs				
O&M Costs				
<i>Add in as many rows as necessary to show O&M Costs</i>				
Sub-Total O&M Costs	N/A	N/A	N/A	
Other Costs				
<i>Add in as many rows as necessary to show Other Costs</i>				
Sub-Total Other Costs	N/A	N/A	N/A	
Overhead				
<i>Add in as many rows as necessary to show Overhead Costs</i>				
Sub-Total Overhead Costs	N/A	N/A	N/A	
Total All Costs				

SECONDARY DEFENDER

Estimated 2005 Cost of Service for Seattle Misdemeanor Cases

Personnel	Number (FTE⁵)	Total Salaries	Total Benefits	Total Cost
Attorneys to cover cases (assume 950 cases)				
Paralegals				
Investigators				
Social Workers				
Clerical Staff				
Direct Supervision				
Other Personnel Costs				
Sub-Total Personnel Costs				
O&M Costs				
<i>Add in as many rows as necessary to show O&M Costs</i>				

⁵ FTE stands for full time equivalent (e.g. 2 half time positions would equal 1 FTE)

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Sub-Total O&M Costs	N/A	N/A	N/A	
Other Costs				
<i>Add in as many rows as necessary to show Other Costs</i>				
Sub-Total Other Costs	N/A	N/A	N/A	
Overhead				
<i>Add in as many rows as necessary to show Overhead Costs</i>				
Sub-Total Overhead Costs	N/A	N/A	N/A	
Total All Costs				

References

- Please provide three references (with name, title, address and phone number) who can speak to your firm’s ability to provide defense services to indigent persons charged with misdemeanor offenses. Include a brief statement describing the relationship between your firm and the reference. At least one of these references must be a judge who can provide information about your firm’s qualifications. At least one of the references must be from a city or county prosecuting attorney in a jurisdiction in which your firm has provided criminal defense services.
- The City may go beyond these references and seek additional references from people who have experience with your firm.
- Please list all of the courts where your firm has provided criminal defense services in the last 5 years.

REQUIRED ATTACHMENTS

- A copy of your organization's 2003 Actual Budget (actual revenues and expenses) and 2004 Estimated Budget.
- A list of the members of your organization's Board of Directors or Management Committee if any. Include name, position/title, length of time on the Board, and expiration of terms. Indicate any vacant positions.
- Copies of the minutes of your firm's board meetings for 2003.
- Insurance: Contractors with the City of Seattle must carry industrial insurance (RCW Title 51). Attorney contractors must also maintain professional liability insurance for all acts which occur pursuant to the contract. (*will fill in required amount in final RFP*). Copies of proof of insurance must be enclosed in the applicant's proposal.