

**TOWN OF SOUTH CONGAREE
119 WEST BERRY ROAD
West Columbia, SC 29172
Phone: (803)755-2760**

REQUEST FOR PROPOSALS

RFP 2024-01

April 9, 2024

PROPOSAL FOR: PUBLIC DEFENDER SERVICES

The Town of South Congaree, SC is pleased to offer a request for proposal for Public Defender Services for our Municipal Court.

Proposals must be received by the Town of South Congaree, 2119 West Berry Road, West Columbia, SC 29172 by 5:00 PM, Friday, May 17, 2024

Subject to the conditions, provisions and the enclosed specifications, sealed proposals will be received at this office until the stated date and time and then publicly opened on May 21, at 6:00pm. Any proposal received after the scheduled deadline, will be immediately disqualified. The Town assumes no responsibility for delivery of proposals which are mailed. No faxed proposals will be permitted.

Direct all inquiries: Town Clerk, (803)755-2760 Option 4
townclerk@southcongarree.org

I. PURPOSE OF REQUEST

The Town of South Congaree requests proposals to provide public defense services for indigent criminal defendants commencing on July 1, 2024 and terminate on June 30, 2025. The parties may mutually agree to extend the resulting Contract for an additional term of one year, expiring on June 30, 2026. This proposal seeks responses from both individual attorneys and law firms.

The Town will pay the selected Public Defender for representational services, including lawyer services and appropriate staff services, infrastructure, investigation and appropriate sentencing advocacy. All proposals should take into account the adopted Standards of the Town and the South Carolina Supreme Court ("Standards") when submitting proposals. Proposals should include all necessary infrastructure, training, and services necessary to comply with the Standards. Legal services provided will include, but not be limited to, interviews of clients and potential witnesses, legal research, preparation and filing of pleadings, negotiations with the appropriate prosecutor or other agency and court regarding possible dispositions, and preparation for and appearance at court proceedings.

The Town had several cases in Municipal Court where a defendant required the services of a public defender. The number of assigned indigent defendants

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and the resulting trials are dependent on the unique facts and circumstances of any particular case and time period, and is subject to variation.

II. INSTRUCTIONS TO PROPOSERS

A. All proposals should be sent to:

Town Clerk
Town of South Congaree
119 West Berry Road West Columbia,
SC 29172
or townclerk@southcongarree.org

B. All proposals must be in a sealed envelope and clearly marked in the upper left hand corner "RFP 2024-01": Public Defender Services."

C. All proposals must be received by 5:00 PM, May 17, 2024 An original And five (5) copies of proposals must be presented.

D. Proposals should be prepared simply and economically, providing a straight forward, concise description of the provider's capability to satisfy the requirements of the request. Special bindings, colored displays and promotional materials are not desired. Emphasis should be on completeness and clarity of content.

E. Proposers should take note that selection shall be made by the Town based upon the written proposal submitted, which will be voted on May 21, 2024 at 6:00pm.

F. The firm or attorney selected shall be notified in writing with a start date of July 1, 2024, once the contract has been signed by both parties.

G. All proposals must include the following information:

1. The name of each and every individual attorney who is proposed to provide public defense services and his or her area of responsibility.
2. A resume for each and every attorney who will provide legal services, or supervise the provision of legal services by others, illustrating the attorney's specific experience in criminal defense.

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April 9, 2024

3. Each proposer will be required to warrant that the proposal submitted takes into account all required training, infrastructure, and service provision required under the Standards set forth by the Supreme Court of the State of South Carolina.

4. References. No less than three written references should be included.

5. Insurance. The proposer should review the draft contract and indicate his willingness and capability to provide insurance coverage of the same or similar nature. Proposers shall assure the Town that their malpractice coverage contains no exclusion for ineffective assistance of counsel.

6. Provide information in your proposal addressing the following:
 - 6.1 Your experience in providing public defense services and contract performance;

 - 6.2 How long has your firm been in existence? How many years has it practiced criminal defense?

 - 6.3 Has your firm handled indigent clients? Describe the type of cases in which you have represented such clients.

 - 6.4 How many attorneys currently employed by your firm would be involved in public defense under the proposal? Resumes and references must be provided for each attorney.

 - 6.5 How many staff employees does your firm employ? How many staff will be assigned to the public defense services contract? If contract or other services are necessary to comply with Supreme Court Standards such as access to a mental health professional or interpreters, indicate how your firm will comply with the Standards in this regard. See proposed Contract, note any duration from provisions for non-routine services.

 - 6.6 Does any attorney or employee of the firm have or could reasonably be anticipated to have any conflict of interest with the Town? If so, how will that conflict be addressed?

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7. Contract Performance.

- 7.1 If your firm has previously provided or is providing contract services for a city or county, please provide any documented review of contract compliance under those contracts.
- 7.2 Please note specifically any termination for cause of any public contract in whole or in part within the last ten years. Please note any corrective action required under any such public contract.
- 7.3 Has any attorney proposed to provide services under your proposal been disciplined by the South Carolina Bar, or any other mandatory bar association of any other state?
- 7.4 Has any attorney employed by your firm been removed from a case because of a court finding of ineffective assistance of counsel?
- 7.5 Has any attorney in your firm been monetarily sanctioned by a court for any reason? Please provide a summary of the sanction, including the court and date sanction was imposed.
- 7.6 Has any attorney in your firm had an action for malpractice filed against the attorney in any courts? If so, what is the status or disposition of the filing?

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April 9, 2024

III. PROPOSED DELIVERY OF SERVICES (Scope of Services is described in Section VI.)

Taking into account the Standards for Services adopted by the Town as well as by the South Carolina Supreme Court, please provide the following information or proposals:

- A. Please describe your firm's general policy guidelines when addressing the needs of indigent misdemeanor clients.
- B. How will you monitor the case load of attorneys providing Indigent Defense Services?
- C. What type of training do the attorneys in your firm receive which would be relevant to the practice in criminal law and public defense?
- D. What is your firm's capacity for working with non-English speaking clients?
- E. Does your firm have any experience working with ex-offenders, the mentally ill, or other clients in need of social service referrals?
- F. Please provide information regarding your firm's ability to report both monthly and annually regarding the assigned case load, the disposition of cases and the types of cases assigned.

IV. SELECTION CRITERIA

In its evaluation process, the Town will consider the completeness of the written proposal, the qualifications of the specific individuals proposed for assignment to act as a Public Defender, the proposer's history of successfully fulfilling contracts of this type, experience in similar work, the proven or potential ability of the proposer to fully comply with all South Carolina Supreme Court standards for the practice of law, as well as the competitiveness of the fee structure proposed. Each proposal will be independently evaluated on these factors.

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V. TERMS AND CONDITIONS

- A. The Town reserves the right to reject any and all proposals and to waive minor regularities in any proposal.
- B. The Town reserves the right to request clarification of information submitted and to request additional information from any proposer.
- C. The Town reserves the right to award any Contract to the next most qualified proposer, if the successful proposer does not execute a Contract within thirty (30) days after the award of the proposal.
- D. Any proposal may be withdrawn up until the date and time set for opening of the proposals. Any proposal not timely withdrawn shall constitute an irrevocable offer for a period of sixty (60) days to provide to the Town the services described herein or until the proposals have been approved by Town administration, whichever first occurs.
- E. The Contract resulting from the acceptance of the proposal shall be in approximately the form shown in this RFP. A copy of the Contract is attached for review. Any proposed amendment to the Contract should be noted in the proposal submitted. The Town reserves the right to reject any proposed Contract change which does not conform to the specifications contained in the RFP, or which is not warranted to provide a level of service sufficient to meet the Town's requirements, or applicable requirements of the South Carolina Supreme Court. Any proposed amendment to the Contract should be noted in the proposal submitted.
- F. The Town shall not be responsible for any costs incurred by a firm in preparing, submitting, or presenting its response to the RFP.
- G. Term. Public defense services will commence on July 1, 2024 and terminate on June 30, 2025. The parties may mutually agree to extend the resulting Contract for an additional term of one year, expiring on June 30, 2025.
- H. Screening. Determination of indigence for eligibility for appointed counsel for this Contract shall be determined by the Clerk of the Municipal court. The Public Defender will not be responsible for screening potential clients. Should the Public Defender determine a defendant is not eligible for

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- assigned counsel, the Public Defender will so inform the court and move to withdraw from the case.
- I. Reporting. The Public Defender shall file monthly reports with the Town delineating each client who has been appointed to the Public Defender for representation, in a format mutually agreed to by the parties. The format shall not include attorney/client privileged information. The report shall designate whether the client was “conflicted” to another attorney for representation or the client hired another private attorney. The court will indicate the charges filed and the disposition of any case as appropriate. The report shall be due on or before the tenth (10th) day of the month in which services were provided.
 - J. Case Count. A case is defined as the filing of a document with the court naming a person as defendant or respondent, to which an attorney is appointed in order to provide representation. Multiple citations from the same incident will be counted as one case. Each case is counted only once, irrespective of any subsequent reappointments pursuant to a failure to appear (hereinafter FTA). Cases will be counted at the time of first appointment. Cases subsequently conflicted, where a private attorney is hired, will be noted on the next report and will not be counted as a Public Defender case.
 - K. Associated Counsel. Any counsel associated with or employed by the Public Defender shall have the authority to perform the services called for herein, and the Public Defender may employ associated counsel to assist at the Public Defender’s expense. The Public Defender and all associated counsel hired pursuant to this section shall be admitted to practice pursuant to the rules of the State of South Carolina Supreme Court. Sufficient counsel shall be provided to represent defendants during a vacation and illnesses, in settings in more than one courtroom.
 - L. Attorney Conflict. In the event the Public Defender must withdraw from a case because of a conflict of interest, the Public Defender shall refer the defendant to another attorney competent and able to provide legal services to the indigent. The cost of conflict counsel shall be paid by the Town and not by the Public Defender.
 - M. Discovery Provided. The Town will provide to the Public Defender at no cost to the Public Defender or defendant one (1) copy of all discoverable materials concerning each assigned case with the exception of audio and

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RFP 2024-01

April 9, 2024

video tapes which shall be made available for inspection in accordance with the rules of discovery. The Public Defender may receive electronic copies of discovery or may request hard copies to be provided. The attached form Contract provides additional information regarding other routine and non-routine services and reimbursements.

- N. Assignment Prohibited. No assignment or transfer of the Contract or any interest in the Contract shall be made by the Public Defender without the prior written consent of the Town.

VI. SCOPE OF SERVICES

- A. General Description. All indigent criminal defendants who are determined to be eligible and are charged under the ordinances of the Town will be referred to the Public Defender. The Public Defender will provide legal representation for each of these defendants and court appointment or screening through trial, sentencing, post conviction, review and any appeal to Circuit Court or the South Carolina appellate courts. Performance of services shall in all respects comply with the standards adopted by the South Carolina Supreme Court and the Town, whichever is more restrictive.
- B. Standards for Public Defense. In addition to the SC Supreme Court Standards, the Public Defender shall at all times comply with the South Carolina Rules of Professional Conduct (SCRPC) and all other applicable court rules as the same exist or are hereafter amended. The Public Defender shall maintain the highest standards of conduct and behavior towards the court, the prosecutors, and all parties.
- C. The Public Defender will attempt to initiate contact with assigned clients within Forty eight (48) hours of assignment. The Public Defender will provide his clients with contact information for availability during office hours. The Public Defender will return client phone calls or other attempts to contact the Public Defender within forty-eight (48) hours excluding weekends. The Public Defender shall provide the prosecutor and Town police department with contact information assuring twenty-four (24) hour a day access.
- D. The Public Defender shall maintain an office and all other infrastructure including an adequate number of secretaries, word processing, paralegals and any and all other support services, including adequate and competent

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interpreter services necessary to comply with the standards for the practice of law in South Carolina. Expert witness, investigator services, mental health assessments and all other services may be provided at additional cost pursuant to court authorization.

VII. COMPENSATION

- A. Please present detailed information on the firm's proposed fee schedule on a total yearly/monthly fee, noting any variations for non-routine services. Services not referenced in this RFP that are not explicitly identified as non-routine will be assumed to be included in the basic fee.

- B. If the proposal includes by-case compensation, payment by the Town for the services will be made only after the services have been performed (through judgment and sentence or dismissal). An itemized billing statement shall be submitted in a form approved by the Town. Payment shall be made on a monthly basis in accordance with the Town's accounts payable procedures.

- C. By submitting its proposal, the Proposer warrants that he or she and all attorneys performing services under the agreement have studied the Standards adopted by the Town and the SC State Supreme Court, and have obtained, as necessary, applicable accounting review of the overhead costs necessary to provide all required infrastructure and services required by such Standards. Proposer further warrants that the proposal submitted is adequate to provide reasonable compensation for the provision of public defense services in accordance with such Standards.

- D. ACQUISITION OF BUSINESS LICENSE: The successful Proposer to this request will be required to obtain a Town of South Congaree Business License prior to commencing work inside the Town limits.