

PUBLIC DEFENSE SERVICES COMMISSION

REQUEST FOR PROPOSALS

FOR

PUBLIC DEFENSE LEGAL SERVICES CONTRACTS
Yamhill County

BEGINNING

JANUARY 1, 2020

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PART I - GENERAL INFORMATION

1.1 Request For Proposals (RFP) Description

The Public Defense Services Commission (PDSC) is seeking contract proposals to provide legal services to persons determined by the state courts to be financially eligible and entitled to court-appointed counsel at state expense. Proposals must demonstrate that the legal services meet Oregon and United States constitutional and statutory requirements, and Oregon and national standards of justice.

PDSC is accepting proposals for all categories of cases in Yamhill County. The contracts awarded will have one-year term beginning January 1, 2020, or other such length of term and beginning date as determined by PDSC.

This RFP contains the applicable procedure, instructions and requirements for proposals. It is organized in four parts:

- Part I General Information
- Part II Proposal Application Instructions and Requirements
- Part III Proposal Application Summary and Proposal Outline
- Part IV Contract General Terms

1.2 Applicable Contracting Procedure

ORS 151.216 authorizes PDSC to adopt policies and procedures regarding the contracting of public defense services. As part of the Judicial Branch, PDSC is not subject to the Department of Administrative Services administrative rules and procedures that govern contracting for personal services contracts. PDSC adopts the policies, procedures, instructions, requirements and other provisions of this RFP as the PDSC procedures for contracting for personal services. The model rules of the Oregon Attorney General do not apply to PDSC contracting but will be reviewed each time the Attorney General modifies them to determine whether PDSC should modify the policies and procedures contained herein.

1.3 Authority

ORS 151.219 authorizes the PDSC executive director to negotiate contracts for legal services for financially eligible persons in proceedings in which:

- 1) a state court or magistrate has the authority to appoint counsel to represent the financially eligible person, and
- 2) the PDSC is required to pay compensation for that representation.

PDSC may contract with individual attorneys, groups of attorneys, private firms, and full-time, not-for-profit public defender organizations for these services.

Awarding these contracts is a proprietary function of PDSC. All such contracts are:

- 1) subject to PDSC's express approval under ORS 151.216(1)(d), and
- 2) contracts with independent contractors for personal services.

PDSC reserves the right to reject any or all proposals received by reason of this RFP or to negotiate separately in any manner necessary to serve the best interests of the PDSC and the state. PDSC reserves the right to seek clarifications of proposals and to award a contract(s) without further discussion of the proposals submitted. PDSC reserves the right to amend or cancel this RFP without liability if it is in the best interest of the state and public to do so.

1.4 Funding Source

The Legislature appropriates funds to the Public Defense Services Commission to pay for legal representation and other expenses related to the legal representation of financially eligible persons for which PDSC is responsible, including contract payments under ORS 151.219.

1.5 Firms Certified by the Office of Business Inclusion and Diversity

Pursuant to ORS 200.035, PDSC shall provide timely notice of RFPs and contract awards to the Governor's Policy Advisor for Economic and Business Equity if the estimated value of the contract is \$10,000 or more.

Firms certified by the Office of Business Inclusion and Diversity, as defined in ORS 200.055, have an equal opportunity to participate in the performance of contracts financed in whole or in part with state funds. By submitting its proposal, proposed contractor certifies that it will take all necessary and reasonable steps to ensure that certified firms are provided an equal opportunity to compete for and participate in the performance of any contract resulting from this procurement. Proposed contractor further certifies and agrees that it has not and will not discriminate in its employment practices with regard to race, creed, age, religious affiliation, sex, disability, sexual orientation or national origin, and it has not and will not discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a minority, woman, disadvantaged, service-disabled veteran, or emerging small business enterprise certified under ORS 200.055.

It is the expectation of PDSC, that the proposed contractor will develop an effective and thoughtful approach to the solicitation of certified firms to perform work on this project.

1.6 Schedule of Events

Release of RFP	October 21, 2019
Proposal Submission Deadline (<i>Received via email by 11:59pm</i>)	November 8, 2019
Commission review of Yamhill County contracting plan	December 19, 2019

PDSC presently intends to award public defense legal services contracts according to the schedule of events described above. By publishing this schedule, PDSC does not represent, agree, or promise that any contract will be awarded on a specified date or any other time in any particular county or judicial district. PDSC intends, however, to adhere to these time frames as closely as possible.

PDSC will provide notice of its intent to award contracts to all applicants at least seven (7) days before the award of contracts, unless exigent circumstances require a shorter period of notice.

1.7 General Proposal Review Procedures

The instructions and information necessary to prepare and submit proposals are found in Part II of this RFP. PDSC will evaluate proposals based on the contents of the applications and any other information available to PDSC. Applicants must submit a completed application using the forms and format provided. Applications must be received by PDSC by 11:59 p.m. on the submission deadline date. The following events will then occur.

A. Inadequate Proposals

PDSC may immediately reject proposals that do not meet the minimum RFP requirements. If a proposal is unclear or appears inadequate, PDSC may give the applicant an opportunity to further explain or provide additional information. If PDSC finds the explanation or additional information inadequate, PDSC's decision to reject the proposal will be final and not subject to appeal.

B. Facially Adequate Proposals

PDSC will evaluate proposals that meet the administrative and contractual minimum requirements as set forth in Part II of the RFP. PDSC will evaluate each proposal based on its total characteristics and any other information available to PDSC. During the evaluation period, PDSC may:

- 1) request additional information from applicants to clarify information or material in the proposal;
- 2) consult with judges, court administrative staff, and others who have knowledge of the applicant or the local caseloads and practices to aid in the review of the proposal's merits; and
- 3) request individuals with experience and expertise in the proposed case types to review the apparent qualifications of the applicants, the strengths and weaknesses of the service delivery plans submitted by applicants and the apparent cost-effectiveness and quality of the various proposals.

C. Negotiations

PDSC must ensure that each contract is compatible with:

- 1) the needs of the particular court(s), county(ies), judicial district(s), region(s), and the state;

- 2) other public defense contracts in place or contemplated; and
- 3) budget allocations.

During negotiations, PDSC may discuss adjustments to proposed costs, caseload types, coverage, level of services, or service providers necessary to meet these objectives.

D. Contract Awards

Award of any contract will be final only when the applicant and the PDSC have properly completed and executed the contract documents.

E. General Contract Terms

PDSC will offer all applicants the same general contract provisions. Successful applicants will enter into a contract substantively similar to the general contract document in Part IV of this RFP, unless otherwise specifically agreed by PDSC.

An applicant may request in the proposal to amend general terms of the contract. PDSC must approve any change. Applicants who do not otherwise accept the general contract terms in Part IV may be disqualified.

1.8 Proposal Evaluation Criteria

PDSC shall evaluate proposals based on the criteria listed below. PDSC reserves the right to reject any proposals that do not comply with the RFP requirements. PDSC shall be the sole determiner of the relative weight given any criterion. Although price is an important criterion, the intent is to provide financially eligible persons with effective legal representation. The applicant with the lowest cost proposed will not necessarily be awarded a contract. PDSC reserves the sole right to make this determination.

CRITERIA:

- 1) The proposal and any modifications are complete and timely, in conformance with the RFP.
- 2) The applicant and any additional attorneys providing services under the contract meet the minimum attorney qualification standards for the types of cases proposed, as specified in PDSC's Qualification Standards for Court-Appointed Counsel to Represent Financially Eligible Persons at State Expense.
- 3) The proposed plan for delivery of services is adequate to ensure effective legal representation. Among the factors PDSC may consider are the quality of legal representation, the experience of the attorneys, staffing patterns, available support staff and other services, and caseload per attorney.
- 4) The applicant has the ability to perform the contract effectively and efficiently and to provide representation in the types of cases proposed. Among the factors PDSC may consider are financial ability, personnel qualifications, and successful experience providing public defense services under contract or on a private bar basis.

- 5) The cost for services is reasonable. PDSC may consider factors that affect the cost, including those outside the applicant's control, such as district attorney (DA) negotiation practices, local jail facilities, court programs and procedures, and the region of the state in which services will be provided.
- 6) The budget is reasonable, and expenses are prorated to the proportion of applicant's time to be devoted to the contract. Among the factors PDSC may consider are the ratios of administrative cost, support services, and non-personnel expenses to direct legal services, as well as compensation, benefit, and other resource levels.
- 7) The proposal is consistent with the needs and best interests of the court(s), county(ies), judicial district(s), and region(s) involved. Among the factors PDSC may consider are the other service methods and service providers available, the applicant's ability to work with the court(s) and within its procedures, and the mix of service providers.
- 8) The proposal is consistent with the needs and best interests of the state as a whole. Among the factors PDSC may consider are the other service methods and mix of service providers available, the applicant's ability to work with other groups affected by the contract, legislative mandates, and other directives that affect the entire statewide contracting patterns or terms.
- 9) Contractor's efforts to attract and retain a diverse work force, including of persons providing services under the contract who are fluent in the languages of persons in the community to be served by contractor.
- 10) Contractor's efforts to become or remain informed about current trends and developments in the provision of public defense services statewide and nationally, such as by attendance at conferences that focus on these matters.
- 11) Contractor's efforts to become or remain informed and involved in matters affecting its local public safety system, such as involvement with a Local Public Safety Coordinating Council and/or Criminal Justice Advisory Council and/or Juvenile Court Model Court Team. In addition to the criteria listed above, PDSC will evaluate the available caseload, the current number of contractors or private bar providers, and the relative cost of administering contracts.

PDSC has the sole discretion to apportion or not to apportion caseloads between applicants AND to award or not to award contracts. PDSC reserves the right to solicit proposals after the close of the RFP process if, in a particular jurisdiction, no sufficient contract proposal is received, caseload exceeds original estimates, or other circumstances require an additional provider.

1.9 Proposal Records

Materials submitted by applicants will not be available for public review until all contracts awarded pursuant to this RFP have been fully executed.

PART II - PROPOSAL APPLICATION INSTRUCTIONS AND REQUIREMENTS

This part of the RFP contains the instructions and requirements for preparing and submitting proposals for public defense legal services contracts.

2.1 Submitting Proposals

The applicant is responsible for any costs incurred in preparing or delivering the proposal. The applicant is responsible for ensuring that the proposal is received timely by the Public Defense Services Commission.

There is no implied promise to award a contract to any applicant based upon the submission of a proposal.

A. Form of Submission

Proposals MUST be submitted as an email attachment in a Portable Document Format (PDF) that has been formatted with optical character recognition (OCR). The PDF must not be password protected nor copy protected.

Any text in the body of the transmitting email will not be reviewed and will not be considered part of the proposal.

The email should be sent to: mail@opds.state.or.us

B. Deadline

Proposals must be received by PDSC no later than 11:59 p.m. on the submission deadline date.

The submission deadline for all proposals is November 8, 2019

If the applicant fails to submit the proposal(s) in accordance with the deadline to PDSC, PDSC will disqualify the proposal(s), unless authorization for late submission is granted in writing by PDSC. Consideration for late submission will be based on PDSC's needs, both regional and by case type, and the reason for the late submission.

2.2 Application Format

Applicants must use the attached application format for submission of all proposals and must answer all questions or state the reason why a specific question is not relevant to the particular proposal. PDSC may disqualify any proposal that is not in the required format or is incomplete.

2.3 Acceptance of RFP and General Contract Terms

- A. Applicants are responsible for reviewing the terms and conditions of the RFP and the general terms of the contract.
- B. By signing and returning the application form, the applicant acknowledges that the applicant accepts and intends to abide by the terms and conditions of the RFP. Further, the applicant accepts the terms and conditions of the general terms of the contract contained in Part IV, unless and only to the extent that the applicant proposes exceptions as described below.
- C. The applicant must clearly state in the proposal any proposed exceptions to the general terms of the contract, including reasons to support the exceptions and estimated efficiencies and/or cost savings. PDSC reserves the right to accept, reject, or negotiate exceptions to the contract terms.
- D. Any changes to the general terms of the contract terms proposed by PDSC will be provided, in writing, to each applicant.

2.8 Evaluation of Proposals

PDSC will begin to evaluate proposals upon receipt, subject to the procedures and criteria described in Part I.

2.9 Categories of Cases Available for Contract

A proposal for public defense legal services may include coverage of all, some, or any of the following categories of cases for which financially eligible persons have a right to appointed counsel payable from the Professional Services Account:

- Noncapital Murder
- Felony
- Misdemeanor
- Probation Violation
- Civil Commitment
- Extradition
- Contempt

Applicants should refer to Part IV, the General Terms of the contract, section 10 for specific definitions of the categories.

2.10 Number of Cases

A. Available Caseload

To obtain the number of contract cases and/or workload likely for a particular court, county, or case type, the applicant should contact the Office of Public Defense Services.

B. Fixed Caseloads and Value- or Hourly-Based Workloads

PDSC will contract for:

- 1) fixed workload by value of cases for non-death penalty contracts

C. Proposed Caseload

The applicant should propose no more than the number of cases or hours for which the applicant can provide effective and efficient representation and adequate support resources including other persons providing services under the contract.

2.11 Cost of Services

A. Expenses Included in Contract Price

Public defense contractors are responsible for all reasonable and necessary expenses that are ordinary and related to the proper preparation and presentation of the case.

PDSC bears the costs outside of any public defense contract for:

- 1) discovery;
- 2) transcripts;
- 3) witness fees and expenses; and
- 4) non-routine case expenses that are preauthorized (e.g., expert witnesses; psychiatric exams; and investigation requiring an investigator's services, unless applicant has staff investigator(s) for this purpose).

Applicants should not include case-related expenses listed above in calculating the cost of providing contract services.

B. Reasonable Expenses

Applicants should project the cost of maintaining an office, adequate support resources including other persons providing services under the contractor other contract expenses at rates no greater than customary for the community and the type of service or expense. PDSC will not pay premium rates. PDSC expects contractors to provide facilities reasonably adequate to ensure an environment conducive to providing effective and efficient legal services and to maintaining the dignity of clients, attorneys, and other persons providing services under the contract.

C. Factors to Consider

In calculating overall case cost figures, applicants should consider the percentage of appointments by case type (the "mix" of cases) and the percentage of appointments that:

- 1) usually terminate before trial or contested adjudication, and at what stages and why they terminate (such as, withdrawals, dismissals, multiple cases negotiated together, and bench warrants); and
- 2) usually go to trial or contested adjudication.

The applicant may consider any other relevant factors in constructing costs, as long as these factors do not jeopardize the delivery of adequate legal services at the prices proposed. Applicants must describe in the application all factors or premises on which costs are based.

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PART III

PROPOSAL APPLICATION SUMMARY AND PROPOSAL OUTLINE

**(TO BE COMPLETED AND SUBMITTED TO PDSC
BY APPLICANTS WHO DO NOT CURRENTLY CONTRACT WITH PDSC)**

PART III - PROPOSAL APPLICATION SUMMARY AND OUTLINE

3.1 APPLICATION SUMMARY

APPLICANT INFORMATION

Yamhill County

Formal Name of Applicant: _____

Contact Person for Proposal: _____

Address: _____

Telephone: _____ Fax: _____

Email (required): _____

Fed. I.D. No.: _____ **or** S.S.N.: _____

Type of Business Entity (*e.g. LLC, Non-Profit, Corporation*):

3.2 CERTIFICATION FORM

I hereby certify that I have the authority to submit this proposal on behalf of the applicant and that I have read and understand the terms and conditions of the general terms of the contract.

Signature

Date

Typed or Printed Name of Authorized Representative

Title or Representative Capacity

Applicant Name

3.3 PROPOSAL OUTLINE

The following is an outline of the information each applicant must provide. All questions must be answered and all requested information must be completed. If a certain question or requested information is "Not Applicable" to the applicant's proposal, please note "NA."

A. SERVICE DELIVERY PLAN

The purpose of a public defense legal services contract is to provide cost-effective delivery of legal services that meet Oregon and United States constitutional and statutory requirements, and Oregon and national standards of justice. Please describe, in detail, applicant's service delivery plan and how it will ensure effective and efficient legal representation. Include information on the following:

1. Persons providing services under the contract. Describe legal, support, and other services to be provided under the contract. Include any express limitations on the range of services.

In addition to providing the information requested above, each attorney included within applicant's proposal must complete a Certificate of Attorney Qualification and Supplemental Questionnaire, to be included with applicant's proposal (see page Appl. 14). The Certificate of Attorney Qualification is available for download at:

<https://www.oregon.gov/OPDS/docs/CBS/Attorney%20Qualification%20form1%202016.pdf>.

2. Case Services. Describe the caseload and case types to be covered. Include any limitations in coverage by case type. Include description of specialty court coverage, if applicable.
3. Service Delivery. Describe how applicant will provide effective, and efficient case-related services. Include:
 - a) how the court would assign cases to applicant;
 - b) how applicant would ensure representation at first appearances;
 - c) how applicant would assign cases to attorneys;
 - d) how applicant would provide for interviews with both in-custody and out-of-custody clients in accordance with the general terms of the contract;
 - e) how applicant would process cases from assignment through reporting to PDSC; and
 - f) how applicant would work with the court to coordinate services with other contractors and with the court.
4. Facilities. Describe applicant's office(s). Include information on:
 - a) office sharing arrangements;
 - b) conference room(s);
 - c) access to materials for legal research and writing;
 - d) ADA compliant access (if none, describe alternative arrangements for meeting clients or witnesses with disabilities) (if applicant is a consortium, describe the access or alternative arrangements for each consortium member's office); and
 - e) number of separate law firms/sole practitioners included.

Does each of applicant's attorneys have their own office?

Does each of applicant's attorneys have their own office in the jurisdiction in which the applicant is

seeking to provide services?

Are any offices housed in a residence?

Does applicant or any of its members own or have an interest in the office building(s)?

If yes, please explain: _____

5. Equipment. Describe equipment or information systems applicant has or will obtain to improve the provision of services under the proposal. If applicant uses or will use a computer system, please specify hardware and software to be used.
6. Quality of services. Describe plans to ensure contractor can and will provide services in accordance with professional standards. Describe plans to ensure that persons providing client representation services under the contract meet the standards of representation set forth in Section 7.1.1 of the contract.
7. Readiness Status. Describe what applicant needs to do to be ready and able to begin services on the proposed contract effective date. If more time is needed, explain why and when applicant will be available. Include information on positions that need to be filled and equipment or facilities that need to be procured. If positions need to be filled, describe recruitment procedures and affirmative action plans.
8. Local Factors. Identify and discuss, in detail, local factors that affect caseload and case processing that may affect cost.
9. Financial Safeguards. Describe the financial safeguards and procedures that you have in place to ensure that contract funds received from PDSC are used for the purpose of providing public defense services and are not vulnerable to theft, embezzlement, or misappropriation.
10. Other Information. Include any other information you believe is important or relevant to PDSC's review of the service delivery plan.
11. Contract Terms. Include any requests to modify terms in the general terms of the contract. Explain the purpose of and need for modification and how it will affect the service delivery plan and cost. Again, PDSC has sole discretion to allow modification of any contract term.

B. PROPOSED ESTIMATED ALLOCATION OF CONTRACT FUNDS

All applicants must complete the forms 1. through 4. contained on the following pages and estimate how contract funds would be allocated to cover service costs.

Under no circumstances will the PDSC fund any lobbying or other political activities for a public defense contractor.

Each consortium must provide expense information in the allocation categories for all members, not just for the umbrella corporation or other umbrella entity. Any nonprofit organization or consortium that has expenses related to its Board of Directors' or Trustees' meetings should include that expense information with the proposed estimated allocation as well as any other expenses not otherwise listed.

1. PROPOSED LIST OF CONTRACT ATTORNEYS

Directions: List every attorney performing work under the 2020 contract, by firm where applicable, the number of projected annual cases (both criminal and juvenile) to be assigned under the contract, and the amount expected annually from contract funds. List vacant positions as well.

Additionally, Contractor certifies that each attorney performing services under the 2020 contract is listed in the proposed list of contract attorneys, that the percentage of contract work and annual funds represented on the proposed list of contract attorneys is true and accurate to the best of their knowledge, and that each attorney listed satisfies the qualification standards that PDSC has established for the types of cases to which that attorney is or will be assigned.

To add additional rows to the table, “tab” when completed with the last row entry.

Annual projected number of cases assigned											
Firm or Office	Attorney name (Last, First)	Bar Number	Murder Jessica’s Law	Major Felony	Minor Felony	Misdemeanor	Delinquency	Dependency	Termination	Misc. Case types (PCR/MHMI/PV)	Annual projected distribution of contract funds (dollar amount)

2. PROPOSED LIST OF OTHER PERSONS PROVIDING SERVICES UNDER THE CONTRACT

Directions: List every non-attorney position performing work under the 2020 contract, by firm where applicable, the name of the employee in each position, the percentage of their time annually allocated to work under the contract, and the amount they receive annually from contract funds. List vacant positions as well.

Contractor certifies that each non-attorney performing services under the 2020 contract is listed below, and that the percentage of contract work and annual funds represented on the proposed list of other person providing services under the contract is true and accurate to the best of their knowledge.

To add additional rows to the table, "tab" when completed with the last row entry.

Firm or office	Employee Name (Last, First)	Position Title	FTE Contract Work	Annual projected Distribution of Contract funds (dollar amount)

Total FTEs: _____

3. CERTIFICATE OF ATTORNEY QUALIFICATION AND SUPPLEMENTAL QUESTIONNAIRE FOR NON-CAPITAL CASES

Submit one certificate and questionnaire for each attorney proposed to provide contract services. The Certificate of Attorney Qualification and Supplemental Questionnaire for non-capital cases is available for download at: <https://www.oregon.gov/OPDS/docs/CBS/Attorney%20Qualification%20form1%202016.pdf>

4. PROPOSED CONTRACTOR CERTIFICATE OF COMPLIANCE WITH OREGON TAX LAWS

Must be provided for a consortium (corporation) as well as for each consortium member.

I, the undersigned, being first duly sworn,

Mark only one: (X)

_____ hereby certify under penalty of perjury that I am not in violation of any Oregon tax laws.

_____ authorized to act in behalf of _____,
(name and address of firm, corporation, or partnership [PLEASE TYPE])

_____ hereby certify under penalty of perjury that _____
(name of firm, corporation, or partnership [PLEASE TYPE])

is, to the best of my knowledge, not in violation of any Oregon tax laws.

For purposes of this certificate, "Oregon tax laws" are ORS chapters 118, 119, and 305 through 324; and any local tax laws administered by the Oregon Department of Revenue under ORS 305.620.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Federal ID # or
Social Security #: _____

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public

My commission expires: _____

5. PROPOSED CONTRACTOR INDEPENDENT CONTRACTOR CERTIFICATION STATEMENT

You can qualify as an independent contractor by certifying that you meet the following standards as required by ORS chapter 670.600:

1. You provide labor and services free from direction and control, subject only to the accomplishment of specified results.
2. You are responsible for obtaining all assumed business registrations or professional occupation licenses required by state or local law.
3. You are customarily engaged in an independently established business, as follows:.

YOU MUST MEET THREE (3) OR MORE OF THE FOLLOWING:

- ☐ A. You maintain a business location separate from the business or work location of the person or organization for whom services are provided.
- ☐ B. You bear the risk of loss related to the business or provision of services.
- ☐ C. You provide contracted services for two or more different persons within a 12-month period, or you routinely engage in business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts or provide similar services.
- ☐ D. You make significant investment in the business through means such as purchasing tools or equipment necessary to provide the services, paying for the premises or facilities where the services are provided, or paying for licenses, certificates or specialized training required to provide the services.
- ☐ E. You have the authority to hire other persons to provide or to assist in providing the services and have the authority to fire those persons.

I hereby certify that the applicant qualifies as an independent contractor as described above.

Signature _____ Date _____

Entity _____

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