



City of Kirkland

Request for Proposal

Public Defender Services

Job # 54-22-CMO

Issue Date: September 26, 2022

Due Date: October 24, 2022– 3:00 p.m. (Pacific Time)

REQUEST FOR PROPOSALS

Notice is hereby given that proposals will be received by the City of Kirkland, Washington (City), for:

Public Defender Services Job # 54-22-CMO

File with Purchasing Agent, Finance Department, 123 - 5th Ave, Kirkland WA, 98033

Proposals received later than **3:00 p.m. PDT October 24, 2022 will not be considered.**

A copy of this Request for Proposal (RFP) may be obtained from City's web site at <http://www.kirklandwa.gov/>. Click on the Business tab at the top of the page and then click on "Doing Business with the City". The RFP can be found under the "opportunities" tab.

The City reserves the right to reject any and all proposals, and to waive irregularities and informalities in the submittal and evaluation process. This RFP does not obligate the City to pay any costs incurred by proposers in the preparation and submission of a proposal. In addition, this RFP does not obligate the City to accept or contract for any expressed or implied services.

A response that indicates that any of the requested information in this RFP will only be provided if the proposer is selected as the apparently successful Service Provider is not acceptable, and in the City's sole discretion may disqualify the proposal from consideration.

The City requires that no person shall, on the grounds of race, religion, color, national origin, sex, age, marital status, political affiliation, sexual orientation, or the presence of any sensory, mental, or physical disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity. The City of Kirkland further assures that every effort will be made to ensure non-discrimination in its programs and activities, whether those programs are federally funded or not.

In addition to nondiscrimination compliance requirements, any Service Provider ultimately awarded a contract shall comply with federal, state and local laws, statutes and ordinances relative to the execution of the work. This requirement includes, but is not limited to, protection of public and employee safety and health; disabilities; environmental protection; waste reduction and recycling; the protection of natural resources; permits; fees; taxes; and similar subjects.

Dated this 26th day of September, 2022.

Jay Gewin
Purchasing Agent
425-587-3123

Published in the Daily Journal of Commerce – September 26 and October 3, 2022.

Scope of Work

The City is requesting proposals from law firms or individual lawyers interested in providing public defender services on a contractual basis. The Public Defender will provide legal representation for all indigent defendants charged with a criminal violation who qualify for appointed counsel. Proposals are requested for the period beginning January 1, 2023. The City presently contracts with outside counsel for public defender services. Upon completion of the RFP process, the City anticipates execution of a three-year contract for public defender services, together with the possibility of up to two (2) additional one-year term extensions at the option of the City.

City Profile

Kirkland is located on the eastern shore of Lake Washington. Since its incorporation, Kirkland has grown in geographic size to eighteen square miles. The current estimated population 92,175.

The City operates under a Council-Manager form of government. Kirkland aspires to be a safe, welcoming, and inclusive city where every person feels they belong. The City is committed to the principles of equity, inclusion, diversity, and belonging for its employees and its contractors, as well as in its provision of services to the Kirkland community, including through its municipal court, prosecutors, public defenders, and police department.

The City is committed to public safety and justice as well as being a safe, inclusive, welcoming, and belonging community where everyone feels they belong. The [2021-2022 City Council Goals](#) includes "Inclusive and Equitable Community", which is an overarching City equity goal. The City expects the Public Defender to understand how implicit bias, structural racism, and inequity issues have influenced the practice of law and our court systems over time, and how such issues can be proactively addressed and overcome through intentional efforts.

The City Council has adopted an initial five-year roadmap for diversity, equity, inclusion, and belonging. It is organized around six goal areas:

- | | |
|---|-------------------------------------|
| 1) Leadership, Operations, and Services | 4) Community Partnerships |
| 2) Plans, Policies, and Budgets | 5) Communications and Education |
| 3) Workplace and Workforce | 6) Facility and System Improvements |

The five-year roadmap can be found here:

https://www.kirklandwa.gov/files/sharedassets/public/city-managers-office/roadmap-as-adopted_1.pdf

The Municipal Court

The Kirkland Municipal Court (Court) began operating in 1995. Kirkland at present also provides municipal court services in its Court to the nearby cities of Medina, Clyde Hill, Yarrow Point, Hunts Point, and Woodinville. However, this request for proposals does not include public

defender services for those other cities. The following table shows the total number of criminal cases filed in the Court from 2017 through 2021 for just the City of Kirkland:

	Criminal Non-Traffic	Criminal Traffic (including DUI)
2017	574	640
2018	606	718
2019	559	758
2020	437	356
2021	529	487

The Court operates Monday through Friday from 8:30 a.m. to 4:30 p.m., with two courtrooms on certain days operating simultaneously. The Court is located at the Kirkland Justice Center (KJC), 11740 NE 118th Street, Kirkland, WA 98034.

Beginning with the onset of the COVID-19 pandemic in early 2020, Court operating hours varied and many Court matters were handled virtually. While it is expected that the Court will have generally returned to normal hours and operations during the period of this new contract, the Kirkland Public Defender must be able to perform flexibly in accordance with the needs of the Court, including through hearings and other proceedings that may be conducted virtually.

Services Requested/Qualifications

- **General Description** - All indigent defendants charged with a criminal violation(s) who qualify for appointed counsel are referred to the Public Defender. The Public Defender will provide legal representation for each of these defendants from court appointment or screening through trial, sentencing, post-conviction review and any appeals to the Superior Court or Washington Court of Appeals. Whenever the Public Defender is counsel of record for an individual who is jailed on a City matter, the Public Defender shall be available to appear in Court before such individual has been in custody for 24 hours; except that, this does not require the Public Defender to be available to appear in Court on Saturdays, Sundays, or City holidays. The Public Defender may withdraw upon completion of the case as allowed by the Rules of Professional Conduct.
- **Screening** - Determination of indigency for eligibility for public defender services will be determined by a screening process established by the Court. The Court will be responsible for the costs of and handling the screening process. Should the Public Defender determine a defendant is not eligible for assigned counsel, the Public Defender will advise the Court and move to withdraw from the case, subject to the Public Defender's professional duties under the Rules of Professional Conduct.
- **24-Hour Telephone Access** - The Public Defender shall provide to the Kirkland Police Department the telephone number or numbers at which the Public Defender can be reached for "critical stage" advice to defendants during the course of police investigations and/or arrest 24 hours each day.
- **Reporting** – The Public Defender shall file quarterly reports with the City which include each client who has been appointed to the Public Defender, the charge(s), cause number(s),

disposition, bench or jury trial, and whether an appeal was filed. The report is due on or before the 30th day after the end of each quarter as to clients represented in the previous quarter.

- **Community Court** – The Public Defender shall review cases for recommendations related to possible referral to Community Court and shall participate weekly on the Community Court calendars and all associated activities (including Community Court case review, communications with prosecutors regarding Community Court eligibility, and in-court calendar case dispositions). The Public Defender shall attend Court-initiated meetings to review, revise or enhance operating performance of Community Court.
- **Associated Counsel** – The Public Defender may employ associated counsel to assist at the Public Defender’s expense. The Public Defender and all associated counsel shall be licensed to practice law before the courts of record for the State of Washington. The Public Defender shall be responsible for overseeing and approving services performed by other attorneys. The Public Defender must immediately report to the City any change affecting the maintenance of membership in good standing of the Washington State Bar Association. No legal interns shall be used unless agreed to in advance by the City.
- **Public Defense Standards** – All public defense services will be provided in accordance the Washington State Supreme Court rules for Indigent Defense Standards Order No. 25700-A-1004, as amended, and Revised Code of Washington Chapter 10.101.030.

Required public defender services include appearance at Kirkland Municipal Court for all criminal case calendars for both courtrooms, unless excused by the Court. The Public Defender provides discovery, manages cases, and issues subpoenas. The Public Defender participates actively in weekly Community Court calendars. Public defender services also include representing indigent criminal defendants in appeals under the Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ).

The Court currently holds the following calendars at which the attendance of the Public Defender is required:

	Mon	Tue	Wed	Thu	Fri
WEEK 1	8:45,9:45,10:30 PTR 1:00 Jail 1:30 BW walk-in	8:45,9:45,10:30 ARR 1:00 Jail 2:00 MOT/BT/SEN	8:45,9:45,10:30 PTR (WDV) 1:00 Jail 2:00 MOT/BT/SEN ----- 1:00 Community Court	8:45 Probation REV 9:45 Non-Probation REV 1:00 Jail ----- 8:45,9:45,10:30 OTH Interp.	8:45 Contested (PA) 9:45 Accident (PA) 10:30 Jail
WEEK 2	8:45,9:45,10:30 PTR (WDV) 1:00 Jail 1:30 BW walk-in 1:45 Bond	8:45,9:45,10:30 ARR 1:00 Jail 2:00 MOT/BT/SEN	8:45,9:45,10:30 Readiness 1:00 Jail 2:00 Non-Probation REV ----- 1:00 Community Court	8:45 Probation REV 9:45 Non-Probation REV 1:00 Jail ----- 8:45,9:45,10:30 SPN Interp.	8:45 Contested (PA) 9:45 Accident (PA) 10:30 Jail

WEEK 3	9:00 Jury Trial 1:00 Jail 1:30 BW walk-in ----- 9:00 Jury Trial	8:45,9:45,10:30 ARR 1:00 Jail 2:00 MOT/BT/SEN ----- 9:00 Jury Trial	9:00 Jury Trial 1:00 Jail ----- 1:00 Community Court	9:00 Jury Trial 1:00 Jail ----- 9:00 Jury Trial	8:45 Non-Probation Rev 9:30 EXP BW 10:30 Jail ----- 9:00 Jury Trial
WEEK 4	8:45,9:45,10:30 PTR 1:00 Jail 1:30 BW walk-in	8:45,9:45,10:30 ARR 1:00 Jail 2:00 MOT/BT/SEN	8:45,9:45,10:30 PTR 1:00 Jail 2:00 Non Prob REV ----- 1:00 Community Court	8:45 Probation REV 9:45 Non-Probation REV 1:00 Jail	8:45 Contested (PA) 9:45 Accident (PA) 10:30 Jail

Legend:

PTR = Pretrial

MOT = Motion

BT = Bench Trial

SEN = Sentencing

REV = Reviews

BW = Bench Warrant

ARR = Arraignment

INTERP = Interpreter

---- (dotted line) = 2 Courtrooms scheduled

This schedule is subject to change.

All Respondents must designate an attorney who will be accountable for contract performance. Respondents must also identify one primary and secondary attorney as the City Public Defender. These lawyer(s) must be available to appear at the Kirkland Municipal Court on an ongoing basis for courtroom(s) coverage. The City Public Defender must have prior work experience in criminal law. At least one year’s criminal trial experience is strongly preferred. The contractor must provide continuity of representation while at the same time ensuring effective back-up coverage.

Any lawyer who may be called on as a back-up attorney must have current awareness of Kirkland public defense cases so that they are fully prepared to provide public defender services in the event of an unanticipated absence. The contractor must ensure that availability of attorneys and support staff is consistent with efficient delivery of public defender services, including coverage for regular vacations. The contractor needs to be able to involve more than one attorney in the delivery of public defender services if efficient case management so requires.

The Public Defender must be responsive to the Court, Police Department, the Prosecutor, and witnesses. For example, the City expects phone calls to the Public Defender to be returned in a timely manner. The City anticipates that a caller would get a response from someone who is familiar with pending deadlines and legal issues in the case by the end of the next business day.

Compensation

The City presently pays \$28,125 per month for its public defender services, which includes 75 cases per month (900 per year), with additional cases beyond that threshold billed at \$375 per case. During the COVID-19 pandemic, caseloads were substantially lower than these thresholds. Even with the return to more routine operations and changes in criminal justice practices, caseloads have not yet recovered to pre-pandemic levels. The average caseload for the 12

months ending 4/30/22 is 42, but we expect that caseloads will stabilize at approximately 60 cases per month (720 per year). In addition, Community Court is now considered ongoing and proposers therefore should assume weekly Community Court calendars in their proposals. Community Court caseload numbers are included in the aforementioned caseload numbers and are not additive. Respondents may propose an alternate structure, but the City prefers a structure that sets a flat rate monthly rate with a base number of cases per month plus a per case rate beyond that threshold. The proposal should also address costs for appeals.

Contract Term

The City is wishing to execute a contract for a period of three-years, commencing January 1, 2023, with an option to extend upon mutual agreement for another two years beyond the original three years.

Requirements of the Proposal

Please include the following in presenting your proposal:

- **Experience** - summarize experience relevant to public defender services. Identify the attorney who would be the City Public Defender, and the attorney designated for contact on administrative matters, if different. Include resumes of all attorneys who will provide public defender services.
- **Method of Service Provision** - Describe method of service delivery, philosophical approach, and what distinguishes you with respect to providing public defender services. Please specifically address the City's safe, welcoming, inclusive, and belonging aspirations and its commitments to diversity, equity, and inclusion (as described in the City Profile) in the provision of all services under the contract.
- **Proposed Fee Structure** - Identify your proposal regarding compensation, describing any expenses that would be charged to the City. For example, identify whether you would charge for travel time or mileage to the KMC or to Kirkland City Hall. Respondents should provide a fee structure that anticipates 60 cases per month (720 per year), but can also propose an alternate fee structure for consideration by the City. The proposal should also address costs for appeals. The proposal should describe the fee structure for year one of the contract, plus how fees would change, if at all, for the possible two extensions of one year each at the option of the City.
- **Statement of Contract Compliance** - Discuss how your insurance meets the City's requirement to provide comprehensive commercial general liability insurance with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate; professional liability insurance with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit; and automobile liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

- **References** - Identify three professional references who can attest to your experience and capabilities as they relate to services requested. The references must include contact name, address, email address, and telephone number.

Proposal Modifications and Clarifications

The City will not reimburse proposers for any costs involved in the preparation and submission of proposals or for attendance at subsequent interviews. Furthermore, this request for proposals does not obligate the City to accept or contract for any express or implied services. The City reserves the right to negotiate regarding the terms and compensation for any proposal. The City reserves the right to request any proposer clarify their response or to supply any additional material deemed necessary to assist in the evaluation, and to modify or alter any of the requirements in this request for proposals.

Proposal Submittal Instructions and Questions

Please note: The following general requirements are mandatory for all proposals. Proposals submitted after the deadline date and time or lacking one or more of the following requirements will not be accepted.

1. **Proposals must be received by no later than 3:00 p.m. on October 24, 2022.**
2. Emailed proposals should include, "City of Kirkland Public Defender Services – Job # 54-22-CMO" in the subject line and be addressed to purchasing@kirklandwa.gov
3. All proposals sent electronically must be in the form of a PDF or MS Word document and cannot exceed 20MB. **This is the preferred submission format.**
4. If paper proposals are being submitted, they must consist of one original and three copies. The City must receive any paper submittal before 3:00 PM on October 24, 2022, and any delivery received after the deadline will be rejected. These can be mailed or delivered to:
City of Kirkland
ATTN: Purchasing staff – Job #54-22-CMO
123 5th Avenue
Kirkland, WA 98033
5. All proposals must include the legal name of the organization, firm, individual or partnership submitting the RFP. Include the address of the principal place of business, mailing address, phone numbers, emails, fax number (if one exists) and primary contact person.
6. To be evaluated, a proposal must address all requirements and instructions contained herein.
7. Provide all references and materials required by the RFP instructions within.

Questions: Written questions regarding this request for proposals should be submitted by **4:00 p.m. on October 7, 2022** and directed to the Purchasing Agent by email to purchasing@kirklandwa.gov, 123 Fifth Avenue, Kirkland, WA 98033.

Process Schedule

The City will attempt to follow this timetable, which should result in the full implementation of a contract effective January 1, 2023.

Issue RFP	September 26, 2022
Deadline for questions	October 7, 2022
Responses to questions	October 14, 2022
Deadline for submittal of proposals	October 24, 2022
Interviews (if needed) Week of	November 7, 2022
Selection of successful proposal	November 14, 2022
Agreement for services signed	December 5, 2022
Implementation of services	January 1, 2023

These dates are estimates and subject to change by the City.

Evaluation Procedures

Staff will evaluate the submitted proposals. The evaluators will consider how well the proposer's proposed methodology and deliverables, philosophy, and pricing meet the needs of the City as described in the proposer's response to each requirement of the proposal. It is important that the responses be clear and complete so that the evaluators can adequately understand all aspects of the proposal. The evaluation process is not designed to simply award the contract to the lowest cost proposer. Rather, it is intended to help the City select the proposer with the best combination of attributes, philosophy, price, and other evaluation factors.

Selection Criteria

The City will evaluate all proposals received under this solicitation using the following points system:

Completeness of proposal	0-10
References	0-10
Philosophy and demonstrable commitment to City policy goals	0-15
Individual attorney's or law firm's experience and of assigned personnel	0-15
Demonstrated ability to provide requested services	0-20
<u>Proposed compensation and contract terms</u>	<u>0-30</u>
TOTAL	100

Selection Process

The City may choose to select a short list of respondents for interview by a committee during early November. The selected Service Provider must be prepared to provide services beginning January 1, 2023. Selection of a Service Provider to serve as Public Defender will be based on the review committee's judgment as to the best match between the City's needs and the background and proposal of the proposer and based on the selection criteria.

Contract

The contract shall consist of the following documents: A Professional Services Agreement for Public Defender Services, this RFP, an accepted proposal, and any agreed upon written changes to any of the foregoing documents. The contract documents are complimentary but in the event of a conflict the Professional Services Agreement shall control.

Terms and Conditions

- A. The City reserves the right to reject any or all proposals, and to waive minor irregularities in any proposal.
- B. Proposers responding to this RFP must follow the procedures and requirements stated in the RFP document. Adherence to the procedures and requirements of this RFP will help ensure a fair and objective analysis of your proposal. Failure to comply with or complete any part of this RFP may result in rejection of your proposal.
- C. The City reserves the right to request clarification of information submitted, and to request additional information on any proposal.
- D. The City reserves the right to award any contract to the next most qualified period if agreement on terms cannot be reached within a reasonable time in the judgment of the City.
- E. Any proposal may be withdrawn up until the date and time set above for opening of the proposals. Any proposal not so timely withdrawn shall constitute an irrevocable offer, for a period of one hundred and twenty (120) days to sell to the City the services described in the attached specifications, or until one or more of the proposals have been approved by the City, whichever occurs first.
- F. The contract resulting from acceptance of a proposal by the City shall be in a form supplied or approved by the City and shall reflect the specifications in this RFP. The City reserves the right to reject any proposed agreement or contract that does not conform to the specifications contained in this RFP and which is not approved by the City Attorney's office.
- G. The City shall not be responsible for any costs incurred by the agency in preparing, submitting, or presenting its response to the RFP.
- H. Any material submitted by a proposer shall become the property of the City. Materials submitted after a contract is signed will be subject to the ownership provision of the executed contract.
- I. The City reserves the right not to award any portion of the proposed contract if it finds that none of the proposals submitted meets the specific needs of the project. The City reserves the right to modify the scope of work and award portions of this RFP to the selected proposer.

Cooperative Purchasing

Chapter 39.34 RCW allows cooperative purchasing between public agencies in the State of Washington. Public agencies which have filed an Intergovernmental Cooperative Purchasing Agreement with the City may purchase from City contracts, provided that the consultant agrees to participate. The City does not accept any responsibility for contracts issued by other public agencies, however.

Public Disclosure

Once submitted to the City, proposals shall become the property of the City, and all proposals shall be deemed a public record as defined chapter 42.56 RCW, the Washington Public Records Act (PRA). Any proposal containing language which copyrights the proposal, declares the entire proposal to be confidential, declares that the document is the exclusive property of the proposer, or is any way contrary to state public disclosure laws or this RFP, could be removed from consideration. The City will not accept the liability of determining what the proposer considers proprietary or not. Therefore, any information in the proposal that the proposer claims as proprietary and exempt from disclosure under the provisions of RCW 42.56.270 must be clearly designated as such. It must also include the exemption(s) from disclosure upon which the proposer is making the claim, and the page it is found on must be identified. In the event of a PRA request for information identified by a proposer as confidential or proprietary, the City will exercise best efforts to provide the proposer with an adequate opportunity to seek a court order preventing disclosure. However, the City will consider but not be bound by a proposer's request for exemption from disclosure.

DBE Participation

The City encourages DBE firms to submit qualifications and encourages all firms to team with DBE firms in their pursuit of this project.

Federal Debarment

The Bidder shall not currently be debarred or suspended by the Federal government. The Bidder shall not be listed as having an "active exclusion" on the U.S. government's "System for Award Management" database (www.sam.gov).