



State of West Virginia
Office of the Attorney General

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Attorney General

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**Request for Proposal for Legal Services
To Represent the Governor of West Virginia and
West Virginia Department of Health & Human Resources**

The Governor of West Virginia and the West Virginia Department of Health & Human Resources (the “Governor” and “WVDHHR” respectively) are seeking legal representation to assist with ongoing litigation involving West Virginia’s foster care program.

More specifically, the Governor and WVDHHR is seeking legal representation to assist the Department with the case of *Jonathan R., minor, by Next Friend, Sarah Dixon, et al. v. Jim Justice, in his Official Capacity as the Governor of West Virginia; et al.*, Case No. 3:19-cv-00710, which is currently pending in the United States District Court for the Southern District of West Virginia.

Qualified law firms or attorneys are invited to submit a proposal on or before **NOON**, October 11, 2019, to assist with the representation of the Governor, Secretary Crouch, Deputy Secretary Samples, Commissioner Watts, and WVDHHR in this matter. The winning proposal, if any, will be selected as soon as possible after that date with representation to commence forthwith.

Background

The Governor and WVDHHR are in need of legal assistance with respect to ongoing litigation regarding West Virginia’s foster care program. More specifically, the Governor and WVDHHR are seeking legal representation to assist with the case of *Jonathan R., Minor, by Next Friend, Sarah Dixon, et al. v. Jim Justice, in his Official Capacity as the Governor of West Virginia; et al.*, Case No. 3:19-cv-00710, pending in the United States District Court for the Southern District of West Virginia.

Accordingly, the Governor and WVDHHR seek particular experience as follows:

- Expertise in child welfare systems;
- Expertise in Child and Family Service Reviews conducted by the Children’s Bureau, an office of the Administration of Children & Families;
- Expertise in title IV-E of the Social Security Act;
- Expertise with litigation involving child welfare systems;
- Expertise with substantive due process under the United States Constitution;
- Expertise with First, Ninth and Fourteenth Amendments to the United States Constitution;

- Expertise with the Adoption Assistance and Child Welfare Act of 1980;
- Expertise with the Americans with Disabilities Act of 1990;
- Expertise with the Rehabilitation Act of 1973; and
- Expertise in federal class action litigation.

Scope of Representation

The client is the Governor and WVDHHR. The attorney or firm, if any, that is selected as a result of this process will work in close coordination with the WVDHHR, as well as the organization's legal counsel provided by the Attorney General's Office, to provide legal services in relation to the above referenced litigation.

Conflict of Interest Information

The attorney or firm must disclose any prior representation of the Governor, Secretary Crouch, Deputy Secretary Samples, Commissioner Watts, WVDHHR, as well as any matters that may create a potential or actual conflict, including, but not limited to, any representations that were adverse to the Governor, Secretary Crouch, Deputy Secretary Samples, Commissioner Watts, and WVDHHR as well as any other previous representations that could impact a conflict analysis for these potential clients.

Your Proposal

No specific form is required of your proposal, but it should address those factors identified in the Attorney General's Outside Counsel Policy,¹ and should also address your experience and demonstrated skill (via references, example documents, and/or a descriptive narrative) in the following practice areas:

¹ Pursuant to the Outside Counsel Policy, the Attorney General shall consider the following factors when determining the most competitive proposal for legal services:

- Whether the private attorneys possess the requisite skills and expertise needed to handle the legal matters in question;
- Whether the private attorneys possess requisite staffing and support to handle the scope of the litigation or matter;
- Whether the private attorneys, or any members of the private attorneys' law firm, have been subject to reprimand by the West Virginia State Bar, or other entities, for unethical conduct;
- Whether the private attorneys have been peer rated, and if so, what peer ratings they have received, along with any other recognitions or awards for legal services;
- The estimated fees, costs and expenses of the private attorneys to perform the legal services requested;
- The willingness of the private attorneys to enter into alternative billing arrangements;
- Whether the private attorneys are in compliance with all applicable laws of the State of West Virginia;
- Any potential conflicts of interest between the private attorneys and the State;
- Any relevant input from the state entity client, if applicable, regarding the needed legal services; and
- Any such other relevant factors as may be identified by the Attorney General.

1. Expertise in child welfare systems;
2. Expertise in Child and Family Service Reviews conducted by the Children's Bureau, an office of the Administration of Children & Families;
3. Expertise in title IV-E of the Social Security Act;
4. Expertise with litigation involving child welfare systems;
5. Expertise with substantive due process under the United States Constitution;
6. Expertise with First, Ninth and Fourteenth Amendments to the United States Constitution;
7. Expertise with the Adoption Assistance and Child Welfare Act of 1980;
8. Expertise with the Americans with Disabilities Act of 1990;
9. Expertise with the Rehabilitation Act of 1973; and
10. Expertise in federal class action litigation.

If you propose to bill hourly rates, please state them separately for each attorney or paralegal to be assigned to this representation and indicate the approximate proportion of total time that will be billed at each rate. Computerized legal research tools, such as WESTLAW or LEXIS, may not be billed as an expense. Please state your per-unit costs (if any) for expenses such as copying; whether you will bill for travel expenses and at what rate; and whether and how you bill for any additional attorney-time while traveling. Representations made in your proposal will supersede any conflicting terms that are less favorable to the client appearing in any written contract or invoice.

Evaluation and Acceptance

Your proposal will be evaluated by the Office of the Attorney General in consultation with the Governor and WVDHHR. Any and all proposals may be rejected. Your proposal should be addressed to the Office of the Attorney General and emailed to rfpresponse@wvago.gov. This Request for Proposal shall be known as RFP # 85, and any and all correspondences relating to this Request for Proposal should reference RFP # 85. All proposals must be received by email no later than **NOON** Friday, October 11, 2019. Any questions regarding this request for proposal should likewise be emailed to rfpresponse@wvago.gov.

Retention of the selected attorney or firm, if any, is conditioned upon execution of a written contract approved by the Attorney General. In no event will any such contract preclude the termination of the representation at any time by official action of the Governor, WVAGO, or WVDHHR.

Thank you for considering this Request for Proposal.