

**City of Herriman
Public Defender
Request for Proposal (RFP)**

I. Introduction

The City of Herriman is accepting proposals from qualified law firms or individual attorneys to provide Public Defender services on a contractual basis in the Herriman City Justice Court. Contract services are estimated to commence on August 1, 2024.

The successful proponent will be an independent contractor and will be required to provide all services contemplated by Utah Code § 78B-22-404. However, the representation expected from the contractor will not include appeals to the Utah Court of Appeals or the Utah Supreme Court. The proposal should detail the methods, equipment, tools, and materials the attorney will use to fulfill the purposes of the Indigent Defense Act. The attorney or firm awarded the contract shall be designated as the Public Defender for the City of Herriman and shall be duly appointed to represent all defendants who are appointed legal counsel by the Herriman City Justice Court for the City’s class B and C misdemeanors and infractions and de novo appeals from the Justice Court.

II. Time Schedule

The City will follow the timetable below, which should result in a selection of a firm or individual by approximately July 1, 2024. Proposals will be accepted until 5:00 pm on June 1, 2024.

Event	Time	Date
Issuance of RFP		May 1, 2024
Proposals Due	5PM (MDT)	June 1, 2024
Anticipated Effective Date of Contract		August 1, 2024

III. Minimum Experience/Qualifications

Each attorney who is proposed to perform services pursuant to this RFP must meet and maintain the following minimum qualifications:

1. Be a member in good standing with the Utah State Bar Association;
2. Maintain a bona fide office in Salt Lake County to conduct business which shall be made known to the clients served;
3. Have experience in defending criminal law matters;
4. Be familiar with the statutes, court rules, constitutional provisions, and case law relevant to criminal law;

5. Be familiar with the collateral consequences of a conviction, including possible immigration consequences and the possibility of civil commitment proceedings based on a criminal conviction; and
6. Be familiar with mental health issues and be able to identify the need to obtain expert services and petition for competency reviews.

IV. Scope of Services

The attorney or firm awarded the contract shall be designated Public Defender for the Herriman City Justice Court, duly appointed to represent all defendants who are appointed legal counsel by said courts, and provide legal services for defendants through de novo appeals in District Court.

The City's Public Defender's responsibilities shall include, but are not limited to, the following:

1. Attending all scheduled court appearances. In the event of vacation or illness Public Defender is responsible for arranging coverage by another qualified attorney.
2. Acting as counsel available to all appointed defendants at all scheduled hearings on scheduled court days. Presently, the Public Defender has regular calendar appearances in the City of Herriman Justice Court on Monday and Wednesday. In addition, the Public Defender will have to make appearances at other times noticed by the Court.
3. Representing appointed defendants at pre-trial hearings/waiver hearings, evidentiary hearings, trials, sentencing, post-disposition proceedings, and any de novo appeals to the District Court.
4. Providing two attorneys to represent defendants at each pretrial/waiver hearing, every review/OSC, and every in-custody calendar as needed.
5. Completing a minimum of five (5) hours of continuing legal education (CLE) within each calendar year in courses relating to public defense practice.
6. Supervising attorneys working under and with the Public Defender to represent defendants to ensure the defendants receive competent legal representation.
7. Consulting with defendants prior to pretrial hearings. Appointment as the City's Public Defender may require meetings with defendants at the Public Defender's office or at the Salt Lake County Jail.
8. Responding to appointed defendant phone calls, texts, emails, etc. in a prompt and reasonable time frame.
9. Providing continuity of representation to defendants so that each defendant is represented by the same attorney during each court hearing and throughout every stage of the case.
10. Identifying conflicts of interest that the Public Defender has under the Utah Rules of Professional Conduct that prevent the Public Defender from ethically representing an indigent defendant. Proponent shall notify the City and the court of the conflict so that the court may appoint conflict counsel as appropriate.

11. Providing the City a contact telephone number that is available 24 hours a day to make contact with the Public Defender in order for the Public Defender to provide legal representation in emergency situations.
12. Preparing for trial to ensure that the defendant receives adequate representation. Preparation for trial shall include but is not limited to: interviewing witnesses identified by the City Prosecutor, interviewing witnesses identified by the defendant, reviewing of police reports and evidence, researching relevant legal issues, preparing a witness list on behalf of the defendant, and consulting with the defendant.
13. Filing a timely Notice of Appeal should an appointed defendant elect to appeal a conviction, and timely providing all legal services associated with a de novo appeal to the District Court should the District Court find that the defendant is still eligible for appointment of a public defender.
14. Notifying the City in writing of any on-going conflict of interest, conflicting litigation or inability to practice law.
15. Maintaining adequate and proper records of the representation provided for each person whom the proponent is appointed to represent.
16. Providing the City, on a regular basis, with the Public Defender's hours worked for the time period in question and the number and types of cases or matters handled, specifying the types and classes of offenses, particular clients, non-jury trials, jury trials, hearings other than trials, plea-negotiated settlements, appeals, cases where a conflict of interest existed, and/or such other factors or statistical information as may be reasonably requested by the City that do not violate attorney client privilege.
17. Maintaining a policy of professional liability insurance or at least one million dollars (\$1,000,000) for claims arising out of work provided as a Public Defender. Also maintaining a policy of workers compensation insurance, liability insurance, and unemployment insurance. All insurance shall be obtained from an insurance company authorized to do business in the State of Utah. Excepting the professional liability insurance, the City of Herriman shall be named on all insurance as an additional insured.

The scope of services does not include forfeiture hearings or hearings with any department of licensing.

V. Fee Proposal

Proponents must clearly disclose the costs they will be requesting as compensation for their services. Actual payment terms are subject to negotiation of a contract with the City. The costs included in the proposal shall include all costs the proponent will be requesting to complete the services contemplated in the Indigent Defense Act and summarized in this RPF, but will not include representation in the Utah Court of Appeals or the Utah Supreme Court.

Proponents should provide alternative bids, including a bid based on a monthly flat fee and another bid based on a per-appointed-case fee.

Payment by the City for the services will only be made on a monthly basis and only after the services have been performed and an itemized billing statement is submitted in the form specified by the City and approved by the appropriate City representative.

VI. Proposal Deadline and Submittal Instructions

All proposals and/or questions should be directed to:

The City of Herriman – City Recorder Office
5355 W. Main Street
Herriman, Utah 84096

All proposals must be in a sealed envelope and clearly marked in the lower left-hand corner: “Public Defender Services Proposal.”

All proposals must be received by June 1, 2024 at 5:00 pm. (MDT). Three (3) copies of the proposal must be presented. No faxed, electronic or telephone proposals will be accepted.

The information requested below is a requirement for submitting a complete proposal. At the sole option of the City, incomplete proposals may not be considered.

1. Description of your law firm/individual attorney overall practice area(s) and the services the firm/individual attorney is capable of providing, including an explanation of how these services will best meet the City’s needs. Please also include a description of related criminal law experience with agencies similar in size to Herriman.
2. Identification of the two attorneys proposed to act as the designated Public Defenders. Include a clear and detailed description of how each proposed attorney meets the minimum experience/qualification identified in this RFP. Also for each attorney, indicate years of experience practicing criminal law; estimated number of trials before a judge; estimated number of trials before a jury; and estimated number of clients served.
3. A list of at least three (3) references capable of speaking to the reputation and qualification of the law firm/individual attorneys. The references need to be persons familiar with the professional skill and ability of the attorney as applied to the public defender work.
4. Proposals shall clearly set forth fees and fee structure to be charged for all public defender services. Any costs to be charged to the City must also be identified.
5. Disclosure of any litigation or judgments rendered against the law firm/individual attorney in any matter relating to professional activities of the firm/individual attorney, including any pending or founded complaints to the Utah State Bar Association.
6. Description of how the law firm/individual attorney handles checking for conflicts; description of how the law firm/individual attorney proposes to handle conflicts that may arise in performance of public defender services.

7. Description of office resources such as access to legal research and reference material, word processing, dropbox/cloud services, electronic discovery, and other office services. Proponent needs to detail the experience of his/her office staff that will be assisting with the representation of indigent defendants.
8. Description of availability in terms of time and resources to meet with, call, text, email, visit with at the jail, or otherwise communicate with defendants outside of court.
9. List of other public defender or long-term agreements that may require the proponent to be absent from the duties outlined in this proposal, including which hours and days, if any, the proponent will frequently or always be unavailable due to expected and repeated court conflicts.
10. Identify whether you and/or your law firm is willing to handle cases for the City on a conflict-basis if the City elects to contract with another law firm/individual attorney as the primary public defender.
11. Responses to RFP must include a signed statement as follows signed by an authorized officer of the firm/individual attorney:

I/We have reviewed all documents presented as part of the City’s RFP for Public Defender Services. The undersigned proposes to perform all work in compliance with these documents as well as in compliance with all submitted proposal information. The undersigned further warrants that adequate staff services and facilities will be established to enable the effective provision of legal services.

VII. Number of Court Cases and Appearances

The following table shows the total number of criminal cases filed by the City in the Justice Court:

Year	# Criminal Cases Filed	# Traffic Cases Filed	Total
2023	262	2,235	2,497
2022	373	2,538	2,911
2021	271	1,005	1,276
2020	247	652	899

VIII. Selection Criteria

The City’s evaluation team will judge the merit of all proposals received in accordance with the general evaluation criteria listed below. Failure to provide any of the information requested may

result in the proposal being removed from further consideration. In making its decision, the City will consider:

1. The price of the proposed services;
2. The ability, capacity, and skill of the proponent to perform the services required under the contract;
3. Whether the proponent can provide the services promptly, or within the time specified, without delay or interference;
4. The character, integrity, reputation, judgment, experience, and efficiency of the proponent;
5. The quality of service and level of performance of the proponent under previous contracts, if any;
6. The previous and existing compliance by the proponent with laws and ordinances relating to the contract or service;
7. Whether the proponent is in arrears to the City on a debt or contract or is in default on surety, or whether the proponent's taxes or assessments are delinquent; and
8. Other relevant information, which the City feels would help in the evaluation of the proposal.

All proposals are subject to successfully negotiating a contract with the City.

IX. General Terms and Conditions

1. The City reserves the right to reject any and all proposals, and to waive minor irregularities in any proposal.
2. Inquiries: Questions arising subsequent to the issuance of this RFP or any addenda that could have a significant impact on the responses to the RFP shall be submitted in writing to:

City Recorder Office
City of Herriman
5355 W. Main Street
Herriman, Utah 84096
Phone: 801-727-0906
Email: recorder@herriman.org
3. Addenda: If it becomes necessary to revise any part of this RFP for clarification or modification, a written addendum to the RFP shall be provided to each proponent. Any addenda issued prior to the date of proposal shall be acknowledged by the proponent in the proposal. Such addenda shall become part of the RFP. Failure on the part of the proponent to acknowledge any and all addenda issued may constitute grounds for rejection of that proposal.

4. All materials submitted in response to this RFP become the property of the City and may be returned only at the option of the City. Proposals submitted may be reviewed and evaluated by any person(s) on staff, employed by staff, or within and among the City's consultants, at the City's sole discretion.
5. By submitting a proposal, the proponent certifies that, (a) the proponent's proposal is genuine and is not made in the interest of, or on behalf of, an undisclosed person, firm, or corporation; (b) the proponent has not directly or indirectly induced or solicited any other proponent(s) to put in a false or sham proposal; (c) the proponent has not solicited or induced any other person, firm, or corporation to refrain or abstain from submitting a proposal; (d) the proponent has not sought by collusion to obtain for themselves any advantage over any other proponent(s) or over the City; and (e) the proponent shall not violate or cause any person to violate the Utah Code of Ethics.
6. There should be no contact with members of the City Council, the Mayor, the courts, or any other City official or employee regarding this RFP other than Travis Dunn (see item 2 above).
7. All proposals must clearly set forth any restrictions or provisions deemed necessary by the proponent to effectively carry out the proposed contract.
8. The City reserves the right to request clarification of information submitted, and to request additional information from any proponent. Any proposal may be withdrawn up until the date and time set above for opening of the proposals.
9. Disclosure of Proposal Content: All responses, inquiries, and correspondence relating to this RFP and all reports, charts, displays, schedules, exhibits and other documentation produced by the offeror that is submitted to the City, as part of the proposal or otherwise, shall become the property of the City when received by the City and may be considered public information under applicable law. The Government Records Access and Management Act, ("GRAMA") states that certain information in the submitted proposal may be open for public inspection. If the Contractor desires to have information contained in its proposal protected from such disclosure, the Contractor may request such treatment by providing a "written claim of business confidentiality and a concise statement of reasons supporting the claim of business confidentiality" with the proposal. Blanket claims that the entire RFP is confidential will be denied. The City cannot guarantee that any information will be held confidential.