

DEPARTMENT OF HUMAN RESOURCES
REQUEST FOR PROPOSALS FOR
LEGAL SERVICES FOR WASHINGTON COUNTY
DEPARTMENT OF SOCIAL SERVICES
WASH/CW/12-129-S

ADDITIONAL QUESTIONS AND RESPONSES

Question 18: The request calls for a lead attorney and a conflict attorney. We will be submitting as a firm, with one attorney designated as the lead attorney/project manager per the RFP. Is it okay to designate a back-up attorney for vacations and emergencies, and just have the conflict attorney for ethical conflicts?

Response: A proposal may be submitted on behalf of a law firm, provided that one attorney is designated as the lead attorney/project manager pursuant to Section 3.6 of the RFP, and a back-up attorney within the firm may be designated to perform the work when the lead attorney is unavailable. Resumes for these individuals are to be included in the submission. Section 3.6 of the RFP provides as follows:

The Contractor shall designate an individual to serve as the Contractor's Project Manager. If the Contractor is a law firm, the lead attorney identified in the Technical Proposal shall serve in this capacity, and shall be the point of contact for any and all issues arising from the award of the Contract. The Contractor's Project Manager shall be available to discuss Contract issues and to attend all required meetings. Meeting dates, times and location will be provided in advance.

See also Sections 4.2 D, E and F regarding Proposed Service, Qualifications, and Key Personnel.

Additionally, the proposal must designate an attorney who is not associated with the Offeror's firm to perform the work in the event that the Offeror's firm is precluded from representing the department due to an ethical conflict. The resume for this individual is to be submitted with the proposal.

With regard to ethical conflicts, adherence to the Maryland Lawyers' Rules of Professional Conduct generally will require that lawyers representing local departments in CINA cases designate a conflict attorney who is not a member of the law firm that provides lead representation because the Rules of Professional Conduct impute conflicts of interest from an

individual attorney to the entire firm. See Rule 1.9 (b); Rule 1.10; *Austin v. State*, 327 Md. 375 (1992). Rule 1.10 provides that "[w]hile lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rule 1.7 (conflict of interest: general rule) or 1.9 (duties to former clients), unless prohibition is based on a personal interest of the prohibited lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm." The Comment to the rule indicates that imputed disqualification is based on the premise that "a firm of lawyers is essentially one lawyer for purposes of the rules governing loyalty to the client." Imputed disqualification also protects against the inadvertent sharing of confidential information. Similarly, Rule 1.9(b) prevents a lawyer from representing a person "in the same or substantially related matter in which a firm with which the lawyer formerly was associated had previously represented a client, if the former client's interests are materially adverse to the interests of the current client, and the lawyer had acquired confidential information regarding the former client.

Although both Rule 1.7 and Rule 1.9 permit a lawyer to represent clients with a conflict of interest, under certain circumstances, if each affected client gives informed consent in writing, the identification of an unaffiliated conflict lawyer will provide ready counsel for those situations when the conflict cannot be waived under the rules.

REVISION TO RESPONSE TO QUESTION 10

Question 10: Does the lead attorney designated in the proposal have to be the one that does the majority of the work or can we designate a lead attorney for contact purposes and a primary attorney for the work?

Revised Response: Not necessarily. The only responsibility the lead attorney has with regards to the RFP is to serve as the Contractor's Project Manager (see Section 3.6). The Offeror may assign another attorney to handle the actual case work. However, this person must meet the Offeror Requirements of the RFP.