

**REQUEST FOR PROPOSAL / QUALIFICATIONS
FOR BOROUGH SOLICITOR SERVICES
RFP 2021-003**

**Issued by the Borough of Bath
Northampton County**

Date Issued: Monday, June 28, 2021

Responses Due by: Friday, August 20, 2021



PURPOSE AND INTENT

The Borough of Bath, Northampton County, invites interested licensed law firms and individuals with municipal law practice experience to submit written proposals for Borough Solicitor services to the Borough of Bath. Through this Request for Proposal (RFP), the Borough of Bath seeks to engage a vendor as Borough Solicitor for the remainder of the calendar year 2021, with reappointment on a yearly basis, unless services are otherwise terminated, as outlined per the Pennsylvania Borough Code.

PROPOSAL SUBMISSION

An original, clearly marked as "ORIGINAL", 10 copies, and one (1) electronic copy of each proposal shall be submitted in sealed envelopes and must be marked with "BOROUGH SOLICITOR PROPOSAL" and addressed to:

Bradford T. Flynn
Borough Manager
121 S. Walnut Street
Bath, PA 18014

The proposal must be received no later than Friday, August 20, 2021, at 4:00 PM.

Faxed and emailed proposals will NOT be accepted. Any inquiry concerning this RFP should be directed in writing to:

Bradford T. Flynn
manager@boroughofbath.org
610-837-6525

All documents/information submitted in response to this solicitation may be available to the general public. The Borough will not be responsible for any costs associated with the oral or written and/or presentation of the proposals. The Borough reserves the right to reject any and all proposals, with or without cause, and waive any irregularities or informalities in the proposals. The Borough further reserves the right to make such investigations as it deems necessary as to the qualifications of any and all firms submitting proposals. The Borough reserves the right to resolicit proposals.

GENERAL INFORMATION ON THE BOROUGH OF BATH

The Borough of Bath is located in the central part of Northampton County, Pennsylvania, and operates under the Pennsylvania Borough Code form of government with a seven (7) member Borough Council, one (1) mayor and a Borough Manager. The Borough recognizes a strong manager-council form of government. The Borough is just under 1 square mile with a street system of approximately 10 miles: 4 state miles and 6 local miles. The street system consists of 63 named streets and alleys. The Borough maintains a storm sewer system of approximately 6 miles with all associated inlets, outfalls, basins, and two retaining ponds. The Borough has approximately 35 acres of park systems and municipally owned buildings. The Borough provides its citizens Pennsylvania State Police coverage, local volunteer fire and ambulance services, public works, contracted municipal solid waste service, codes and parking enforcement, zoning, planning, parks and recreation and other municipal services. More than 75% of the Borough is developed. The Borough has 3 full-time office and 4 full-time public works non-union employees. The Borough Council meets the first Monday of each month for its regular public meeting, and the second Wednesday of an each odd-numbered month. The Borough has an approximate residential population of 2,700, and an annual budget across multiple funds of approximately \$2.5 million.

SCOPE OF SERVICES AND DUTIES OF SOLICITOR TO BOROUGH OF BATH

The scope of services may include, but is not limited to:

- Pennsylvania Borough Code in a Council-Manager form of government
- Working knowledge of government ethics, sunshine, and Right-to-Know laws
- Sub-Division and Land Development
- Zoning
- Comprehensive and Regional Planning
- Water & Water Distribution (knowledge of; however, Borough has separate Borough Water Authority; Council provides oversight)
- Wastewater and Sewage (knowledge of; however, Borough has separate Borough Water Authority; Council provides oversight)
- Sanitation and Recycling
- Development and Review of Ordinances, Resolutions, and Policies
- Contracts and Procurement
- Law Enforcement matters (even though PSP coverage provided), including internal matters, as well as matters involving traffic and parking regulations
- Pennsylvania Open Records Act / Right to Know Law
- Public employee personnel and labor relations, including public unions
- Legal representation at the highest state and federal levels
- Other legal matters including interpretation of municipal law, Borough Code, and negotiations on behalf of the Borough
- Assembling Employment Practices Liability (EPL) policies to protect the Borough

- Procurement and Sale of real estate and/or property
- Attendance at meetings of the Borough Council and Planning Commission as needed. Borough Council meets on the 1st Monday of the month at 6:30 PM. Borough Council meets on the 2nd Wednesday of each odd-numbered month. The Borough Commission, if needed, meets the 3rd Monday of the month at 6:00 PM.
- Attendance at other meetings, including committee meetings, representation of the Borough at Zoning Hearing Board Meetings, civil services hearings, and other meetings as necessary.
- Prepare or approve, if directed or requested, any bonds, obligations, contracts, leases, agreements, conveyances, ordinances, and assurances to which the Borough or any department of the Borough may be a party.
- Commence and prosecute all actions brought by the Borough for or on account of any of the estates, rights, trusts, privileges, claims, or demands of or against the Borough, as well as defend the Borough or any Borough officer against all actions or suits brought against them in which any of these matters may be brought into question before any Court in the Commonwealth of Pennsylvania.
- Perform every other professional act incident to the office which the Solicitor may be authorized or required to do by the Borough.
- Handle and issue municipal liens as needed.
- Collections for delinquent taxes, refuse bills, etc.
- Maintain availability by cell phone and email and provide timely responses to sensitive matters.
- Assist with the interpretation of codes, ordinances, contractors, and other laws and regulations.
- Recommend and work with outside Counsel to represent the Borough under circumstances where warranted.
- Work with the Borough's Special Labor Counsel, Civil Service Counsel, Zoning Hearing Board Counsel, and Insurance Counsel as needed.
- The municipal Solicitor shall render such legal services as may be necessary or desirable for the best interests of the Municipality, and shall, upon request, furnish the Borough Council or Borough Manager a written opinion upon any question of law submitted by the Manager or the body of Council.
- Submit invoices of monthly services to the Borough's Accounting Office no later than the 10th of the month following services rendered.

MINIMUM QUALIFICATIONS

The selected firm must provide personnel who meet the following minimum criteria:

1. All attorneys representing and conducting services for and on behalf of the Borough shall be licensed to practice law in the Commonwealth of Pennsylvania and be a member of the Bar in good standing.

2. Experience in municipal law, municipal litigation, tort claim laws, Pennsylvania public employment, Act 111, public union negotiations, arbitration matters, personnel and labor issues.
3. Primary attorney assigned shall have at least seven (7) years' experiences as a Borough Solicitor in a Pennsylvania municipality, with at least five (5) years for a municipality that has at least a \$2 million budget.
4. The applicant also must demonstrate knowledge in all of the areas outlined in the Scope of Services Section of this RFP and shall also demonstrate a high degree of knowledge, experience, and ability with the following:
 - a. The operation of local government units in Pennsylvania, in particular, Pennsylvania Boroughs with a Council-Manager form of government.
 - b. Acquisition and disposition of real estate and real property as well as the purchase and sale of the same.
 - c. Municipal Land Use Law
 - d. Extensive knowledge of Local Public Contracts law
 - e. Labor Relations and Public Employment Laws, including ability to create and / or review policies, contracts, and negotiate with unions.
 - i. Working knowledge of:
 1. Workers Compensation
 2. Family Medical Leave Act
 3. Act 111
 4. Pension laws and requirements, including but not limited to Act 205 and Act 600
 5. PA Act 101 – Solid Waste and Recycling
 6. Title 35 – Emergency Management
 7. Pennsylvania Municipalities Planning Code
 8. Pennsylvania Borough Code
 9. Pennsylvania Constitution
 10. Other relevant employment laws and regulations
 - f. Experience in reviewing, drafting, and interpreting ordinances.
 - g. Experience with SALDO and Zoning Ordinances, including assistance in writing ordinance amendments, interpreting, and making recommendations.
 - h. Ability to place and remove liens on properties, ability to provide collection services if needed.
 - i. Litigation experience for plaintiffs and defendants, at the Common Pleas, Commonwealth Court, Pennsylvania Labor Relations Board, EEOC, and federal court levels.
 - j. Bond and finance procedures for municipalities.

Include a list of any other professional qualifications, experiences and / or credentials you believe are relevant to the RFP.

TERM

The term for all municipal appointments, by requirement of the Pennsylvania Borough Code, shall last no longer than the 1st day of every even numbered year, however, the term may be extended by majority vote of Borough Council at its biannual reorganization meeting. Moreover, the Borough has the right to dismiss the Solicitor at any time, and the Solicitor serves at-will, at the discretion of the Borough.

CURRENT, EXISTING, AND ON-GOING WORK

The selected municipal Solicitor will assume all legal representative duties for the Borough immediately upon appointment. However, the current contracted municipal Solicitor firm shall complete any immediate legal matters in which it is currently involved. A complete list of those projects shall be determined at a later date and is at the complete discretion of the Borough.

MANDATORY CONTENT OF PROPOSAL

A. Contact Information

- Provide the name and address of the firm; the name, telephone number, fax number, and email address of the individual responsible for the preparation of the proposal.
- List the names of the firm's partners / principles and all local offices of the firm.
- Identify the location of the firm's main office that will be working with the Borough of Bath and the number of employees, titles, names and positions that would be working on behalf of the Borough of Bath.

B. Executive Summary

- The vendor shall provide a summary of not more than two (2) pages in which the applicant substantiates the reasons the vendor is best qualified to provide the requested services.

C. Level of Service

- Provide a staffing plan listing those employees who will be assigned to the engagement should your firm be selected, including the designation of the principle professional Solicitor(s) responsible for all services under the engagement. Include the relevant resume information of the individuals who will be assigned, including the specific tasks or services for which they will be responsible. This information should include a description of each individual's relevant professional experience, years and type of experience and number of years with the firm.

D. References

- List of all Pennsylvania local government jurisdictions over the past ten (10) years, including where your firm presently serves as municipal Solicitor or provides similar services. Identify the duration and scope of service at each community. In reference to each municipality, specifically describe client size, number of employees, municipal budget, average legal budget, and provide the type of work you provide for each client.
- Identify at least three (3) municipal clients in which you have provided services for over the past five years in which you wish to include as references. Please provide names, titles and telephone numbers.
- Identify up to three (3) non-municipal clients you wish to include as references. Please provide names, titles and telephone numbers.

E. Disciplinary Actions

- Provide a description of any ongoing investigation and / or litigation matters involving the firm, its partners, principles, officers, or other individuals employed by the firm. Please give a history of the same over the past ten (10) years.
- If the vendor or any principal therein has been engaged as a defendant in any litigation involving a sum of \$100,000 or more and / or has been subject to any professional disciplinary action over the last ten (10) years, the bidder must provide a description of the litigation and / or disciplinary action.
- A description of any ongoing investigation and / or litigation matters involving the applicant, its directors, officers and principals and any individuals employed by the applicant that relate to the performance of the vendor in the proposed field of expertise.

F. Conflicts of Interest

- Identify any potential conflicts of interest and disclose any representation of parties or other relationships that might be considered a conflict of interest with regard to this engagement, or the Borough. The Borough recognizes that the selected Firm may have private clients that operate in the Borough. The Borough would require that any such conflict be disclosed and the Borough would retain Special Counsel for any matters related to the Borough for which the Solicitor's private clients constitute a conflict of interest. Respondents should identify any existing or probably conflicts of interest, and disclose any representation of parties or other relationships that might be considered a conflict of interest with regard to this engagement.
- Describe any material financial relationships that you or your firm or any employee has with any individual or organization that may create a conflict of interest in representing the Borough.
- Describe any family relationship that any employee of your firm has with any public servant that may create a conflict of interest or the appearance of a conflict of interest in representing the Borough.

- Describe any other matter that your firm believes may create a conflict of interest or the appearance of a conflict of interest in representing the Borough and the manner in which such conflicts described in this paragraph will be resolved.

G. Insurance

- Detail your insurance coverage applicable to the services described herein. Such coverage must include, at a minimum, Workers Compensation, Employer's Liability, Commercial General Liability, Comprehensive Automobile Liability, Umbrella Liability, Errors and Omissions, and Professional Liability coverage. Include insurance certificates summarizing such insurance coverage.

H. Fees

- The Borough understands that firms bill differently. **The Borough is strongly seeking a fixed monthly fee**, but will consider a retainer, and/or an hourly fee for services rendered. However, general monthly questions and phone calls billed at tenths of the hour is considered by the Borough as archaic and generally unacceptable. Under a fixed monthly fee, this would not include matters related to litigation. The fixed monthly fee would include attendance for up to at least three (3) public meetings.
 - i. The Borough encourages creative fee structuring that will be responsive to taxpayer needs where the Borough's population of 50% is at low to moderate income levels and assessed property valuations are one of the lowest in Northampton County. Furthermore, the Borough is seeking solutions to modernized billing practices that will meet these concerns.
- Firms shall itemize their fee schedule to include all costs, with an explanation of how costs are calculated, and the methodology used to do the same. Itemized costs shall include ALL costs passed onto the Borough, including but not limited to professional consulting costs, clerical costs, paralegal costs, and all ancillary expenses such as travel, copying, phone, postage, etc.
- If vendor charges different fees for different attorneys, the vendor shall list this in the itemized cost proposal.
- Identify any increase in rates for your municipal clients over the past five (5) years.
- A proposal showing minimum and maximum ranges is not acceptable.

I. Equal Employment

- Describe your firm's equal employment opportunity policies and programs.

J. Please discuss any other factors not mentioned above which you believe to be relevant to the solution of your firm.

INTERVIEW

The Council of the Borough of Bath reserves the right to interview any or all of the firms submitting a proposal. Although interviews may take place, the proposal should be comprehensive and complete as submitted. However, while there is no specified page limit to a response to this RFP, applicants are advised to only provide material related to the request and qualifications for service. Please avoid providing extensive boilerplate, corporate marketing, or filler material.

SELECTION PROCESS

All proposals will be reviewed by the Borough Manager and Borough Council to determine responsiveness. Non-responsive proposals will be rejected without evaluation. For vendors that satisfy the Minimum Qualifications and the Mandatory Proposal Content portions of the application, the Borough's evaluation will include but not be limited to the following evaluation criteria, separate or combined in some manner, and not necessarily listed in order of significance:

- A. The vendor's general approach to providing the services required under this RFP.
- B. The vendor's documented experience in successfully completing contractors of a similar size and scope of the engagement addressed by this RFP.
- C. The qualification and experience of the vendor's management, supervisory or other key personnel assigned to the engagement, with emphasis on documented experience in successfully completing work on contracts of similar size and scope to the services required by this RFP.
- D. The overall ability of the vendor to mobilize, undertake, and successfully complete the scope of work in a timely fashion. This criterion will include, but not be limited to, the following factors: the number and qualifications of management, supervisory, and other staff proposed by the vendor to perform the services required by this RFP, the availability and commitment to the engagement of the vendor's management, supervisory, and other staff proposed.
- E. The vendor's oral presentation and interview, if selected by the Borough, shall assist with affirming or supplementing information contained within the RFP.
- F. The Borough may reject any and all proposals, whole or in part, for any reason.
- G. The Borough has the right to waive any irregularities in the proposal.
- H. Costs and fee schedules.
- I. The final selection shall be made using criteria judged to be the maximum benefit to the Borough as a whole.

SELECTION AND CONTRACT

The Borough will select the vendor deemed most advantageous to the Borough, with price and other factors considered. The resulting contract will include this RFP, any clarifications of addenda thereto, the selected vendor’s proposal, and any changes negotiated by the parties.

ACCEPTANCE BY BOROUGH FOR BOROUGH SOLICITOR

The Borough hereby accepts the proposal for Soliciting Services and awards this contract for Soliciting Services per the firm’s proposal for Soliciting Services and RFP documents of Borough of Bath RFP 2021-003.

Firm:

By (signature): _____

Printed Name: _____

Title: _____

Borough Representative:

Signature of Borough: _____

Printed Name: _____

Title: _____

Date of Bid Award: _____