

PRE-PROPOSAL CONFERENCE
REQUEST FOR PROPOSALS
LEGAL REPRESENTATION FOR ADULTS INVOLVED IN ADULT
PROTECTIVE SERVICES GUARDIANSHIP HEARINGS AND ADULT
PUBLIC GUARDIANSHIP REVIEW BOARD PROCEEDINGS

OS/MLSP-16-001-S

MAY 6, 2016
311 West Saratoga Street
Room 104
Baltimore, Maryland

1:00 p.m. - 2:05 p.m.

PRESENT FROM DHR:

NNEKA WILLIS-GRAY

DANIKA MONTAGUE

TEMINKA RAWLINGS

ANDRE DAVIS

LISA DAMERON

DEBBIE AUSTIN

SCOTT C. MOORE, ESQUIRE, OAG

ALSO PRESENT:

DEBRA G. SCHUBERT, ESQUIRE

BONNIE A. SULLIVAN, Maryland Volunteer Lawyers
Service

CAROLYN S. MALINOWSKI, ESQUIRE, Maryland Volunteer
Lawyers Service

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SHELTON (SHELLY) SKOLNICK, ESQUIRE, Skolnick Law
Firm

SHAWN VINSON, ESQUIRE, Law Office of Shawn Vinson

ARTHUR L. DRAGER, ESQUIRE, Law Office of
Arthur L. Drager

BARRETT R. KING, King Hall

CHRISTOPHER PALMER, Donahue Law Group

JOSEPH G. (JERRY) COMEAU, ESQUIRE, Ria P. Rochvarg

VIRGINIA REED, ESQUIRE, Ria P. Rochvarg

MEISHA M. GRIMES, ESQUIRE, Grimes Legal Group

MARK HOUSTON GRIMES, ESQUIRE, Grimes Legal Group

ANDREW C. MEEHAN, ESQUIRE, Law Offices of
Stephen Z. Meehan

KIM WHARTON,

JOHN P. MARKUS, JR., ESQUIRE, State of Maryland,
Office of the Public Defender

REPORTED BY: KATHLEEN A. COYLE, Notary Public

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P R O C E E D I N G S

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MS. WILLIS-GRAY: Good afternoon everyone.
Now that the procurement officer is here we can finally get started, right? So good afternoon. Welcome to the Department of Human Resources. I'd like to thank you for coming out this wet, rainy day and spending some time with us. My name is Nneka Willis-Gray. Again, I'm the procurement officer for this solicitation, legal representation for adults involved in adult protective services, guardianship hearings and adult public guardianship review board proceedings.

Due date for the request for proposals is June 6, 2016. Proposals are due by 1:00 p.m. And just as a reminder, we do not accept late proposals. So please get them in on time.

Hunt reporting is recording this conference, and a transcript will be posted to eMaryland Marketplace and DHR website.

If anyone may need to use the restrooms there is a exit to the back at the side. Just go through that exit, turn left, it's down the hall to the left.

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1 So today we're just going to highlight some
2 areas of the RFP. Once we complete the highlights
3 we'll have a questions and response session. At that
4 time we ask that you hold the majority of your
5 questions until then.

6 So before we get started we'll go around the
7 room and do introductions. We'll start here at the
8 front table, and then we'll start, move to the front
9 row and move left to right.

10 MS. DAVIS: I'm Audre Davis. I'm the
11 Director of Maryland Legal Services Program.

12 MS. RAWLINGS: Teminka Rawlings, Deputy
13 Director, Maryland Legal Services Program.

14 MS. MONTAGUE: Danika Montague, procurement.

15 MS. DAMERON: Lisa Dameron, Maryland Legal
16 Services.

17 MS. SCHUBERT: My name is Debra Schubert.

18 MR. SKOLNICK: Shelly Skolnick.

19 MR. VINSON: Shawn Vinson.

20 MS. SULLIVAN: Bonnie Sullivan.

21 MS. MALINOWSKI: Carolyn Malinowski.

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1 MS. REED: Virginia Reed.
2 MR. DRAGER: Art Drager.
3 MR. KING: Barrett King.
4 MR. PALMER: Chris Palmer.
5 MR. MARKUS: John Markus.
6 MR. MEEHAN: Andrew Meehan.
7 MR. GRIMES: Mark Grimes, Grimes Legal Group.
8 MS. GRIMES: Meisha Grimes.
9 MS. WHARTON: Kim Wharton.
10 MR. COMEAU: Jerry Comeau.
11 MR. MOORE: Scott Moore with the AG's Office.
12 MS. WILLIS-GRAY: Thank you all and welcome.

13 We're going to start with the general information page.
14 This begins on page seven of the RFP if you're
15 following along.

16 This RFP is a state-wide contract to provide
17 legal representation for indigent adults involved in
18 adult protective services, APS guardianship hearings
19 and adult public guardianship review board, APGRB
20 proceedings.

21 The anticipated duration of this contract is

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1 for three years. It does have two one-year options.

2 The contractors that currently have contracts
3 with the Department to provide APS/APGRP services will
4 have the opportunity to keep their current cases. Each
5 offeror that is currently a contractor with the
6 Department for APS/APGR services shall indicate its
7 desire to retain its current cases in the executive
8 summary section of the technical proposal. If a
9 contractor would like to continue providing legal
10 services to their current clients but do not wish to
11 seek new cases, that contractor must still submit a
12 proposal in response to the RFP in order to finish the
13 (unintelligible) the requirements of the RFP, including
14 payment terms.

15 For the final award determination for
16 existing case loads only, preference will be given to
17 those current providers who submit a proposal to keep
18 their current case load provided it is determined to be
19 in the best interest and most advantageous to the State
20 after the evaluations of proposals.

21 The Department intends to make multiple

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1 awards in the following jurisdictions: Baltimore City
2 will receive four awards, Baltimore County will receive
3 three awards. All other jurisdictions will receive a
4 single award.

5 Offerors either directly or through their
6 subcontractors must be able to provide all services and
7 meet all the requirements requested in this
8 solicitation. And the successful offeror shall remain
9 responsible for contract performance regardless of
10 subcontractor participation or work.

11 I would just like to make mention that there
12 are no MBE or VSBE subcontracting goals. And also the
13 hiring agreement is not applicable to this
14 solicitation.

15 I would now like to introduce Ms. Danika
16 Montague. She will go over the living wage.

17 MS. MONTAGUE: Good afternoon. My name is
18 Danika Montague, I'm with the procurement division here
19 at DHR. I'm going to read section 1.34, the living
20 wage requirement.

21 Maryland law requires that contractors

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1 meeting certain conditions pay living wage to cover
2 employees on State service contracts over \$100,000.

3 Maryland code state finance --

4 (Whereupon, there were microphone
5 difficulties.)

6 MS. MONTAGUE: We'll just start over. So
7 once again, 1.34 living wage requirements. Maryland
8 law requires that contractors meeting certain
9 conditions pay a living wage to covered employees on
10 state-service contracts over \$100,000, Maryland Code
11 State finance and procurement 18-101. The commissioner
12 of Labor and Industry at the Department of Labor,
13 Licensing and Regulation requires that a contractor
14 subject of the living wage law submit payroll records
15 for covered employees and a signed statement indicating
16 that it paid a living wage to covered employees or
17 received a waiver from living wage reporting
18 requirements. You can see COMAR Section 21.11.10.05.

19 If subject to the living wage law contractors
20 agree that it will abide by all living wage law
21 requirements, including but not limited to reporting

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1 requirements in COMAR 21.11.10.05. Contractor
2 understands that the failure of contractor to provide
3 such documents is a material breach of the terms and
4 conditions and may result in contract termination,
5 disqualification by the State from participating in
6 State contracts, and other sanctions. See the living
7 wage clause in the contract, which is attachment eight
8 to this RFP.

9 Additional information regarding the State's
10 living wage requirement is contained in attachment G.
11 Offerors must complete and submit the Maryland living
12 wage requirement affidavit of agreement, which is
13 attachment G1, with their proposal. If an offeror
14 fails to complete and submit the required documentation
15 the State may determine the offeror to be not
16 responsible under State law.

17 Contractors and subcontractors subject to the
18 living wage law shall pay each covered employee at
19 least the minimum amount set by the laws that are
20 applicable to your area. The specific living wage rate
21 is determined by whether a majority of services take

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1 place in a tier one area, which is \$13.59, or tier two
2 area, which is \$10.21 of the State. The tier one area
3 includes Montgomery, Prince George's, Howard, Anne
4 Arundel and Baltimore Counties, as well as Baltimore
5 City. The tier two area includes any county in the
6 State not included in the tier one area. In the event
7 that the employees who perform the services are not
8 located in the State, the head of the unit responsible
9 for state contract pursuant to 18-102 of the State
10 Finance and Procurement Article shall assign the tier
11 based upon where the recipients of the services are
12 located.

13 The contract resulting from this solicitation
14 will be determined to be a tier one contract or tier
15 two contact depending on the location from which the
16 contractor provides 50 percent or more of the services.
17 The offeror must identify in its bid or proposal the
18 location from which the services will be provided,
19 including the location from which 50 percent or more of
20 the contract services will be provided. If the
21 contractor provides 50 percent or more of the services

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1 from a location in the tier one jurisdiction, the
2 contract will be a tier one contract. If the
3 contractor provides 50 percent or more of the services
4 from a location in a tier two jurisdiction, the
5 contract will be a tier two contract. If the
6 contractor provides more than 50 percent of its
7 services from an out-of-state location the State agency
8 determines the wage tier based on where the majority of
9 the service recipients are located. Any circumstance,
10 this contract will be determined to be a tier one or
11 tier two contract. Information pertaining to reporting
12 obligations may be found by going to the Maryland
13 Department of Licensing and Regulations' website. Note
14 whereas the living wage may change annually, the
15 contract price may not be changed because of the living
16 wage change. Thank you.

17 MS. WILLIS-GRAY: Thank you, Danika. We're
18 now going to review the minimum qualifications section.

19 The offeror shall have at least one attorney
20 in its office that is assigned to represent indigent
21 and/or alleged vulnerable adults under the contract,

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1 and that the attorney shall have a minimum of two years
2 of legal experience in adult guardianship, elder
3 guardianship or disability law or ten years of general
4 litigation experience. Legal experience means that the
5 attorney was engaged in the areas of law referenced
6 herein as a member in good standing with the Maryland
7 State Bar. Time spent, for example, as a law clerk or
8 paralegal will not count towards the minimum experience
9 required. As proof of meeting the minimum requirements,
10 the offeror shall provide with it's proposal a copy of
11 the resume of the attorney relied on to meet the
12 requirement along with three references that are able
13 to substantiate the experience required.

14 Moving onto section three, the scope of work
15 of the RFP. This section will be presented by Maryland
16 Legal Service Program. Please let me introduce
17 Ms. Audre Davis, director of Maryland Legal Services.

18 MS. DAVIS: Good afternoon everyone. The
19 scope of work is very detailed in the RFP. So I'm just
20 going to hit some of the highlights. For the
21 incumbents, there are things that are different from

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1 previous RFPs, and for the new faces that we've seen
2 here they are the things that you should pay special
3 attention to.

4 By way of background, I will let you all know
5 that these service contracts have been under intense
6 review for the past two years. Some of the changes
7 that we are making are to bring this unit in line with
8 the State auditors and the DBM, Department of Budget
9 and Management's requirements.

10 The first thing that we're requiring this go
11 around is that when you invoice the Department for a
12 case you're going to have to provide essentially back
13 up information. You're going to have to provide us
14 with the appointment order which verifies, or whatever
15 it's called in whatever jurisdiction that you're in.
16 The appointment is usually noted in the show cause or
17 whatever document you receive it in, just a
18 notification that you're representing that client at
19 the direction of the court. That's going to have to
20 accompany each case that you invoice the Department
21 for.

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1 The second thing that you're going to have to
2 provide is some sort of document that indicates that
3 you in fact did appear on behalf of the client, whether
4 that is a court order or a form which is signed,
5 notarized, stamped by the courtroom clerk that
6 indicates that you in fact appeared on behalf of the
7 indigent person. Those two documents must accompany
8 any invoice that is submitted for a client. Now, we
9 recognize that that's something that has not
10 traditionally been asked of by any provider and it's
11 not something that I guess, I mean, at least in my
12 practice, something I that I would think I would ever
13 have to provide. It is 100 percent required by the
14 State of Maryland for every case that we pay. We have
15 to be able to produce those two documents to prove that
16 you were paid properly.

17 The other thing that we think you should know
18 is that we are developing or have developed a case
19 management system which will allow for electronic
20 invoicing. In the very near future each contracted
21 firm will have a log on, two log ons to access a DHR-

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1 owned system, which is housed here at DHR, and it is
2 from that system you will be able to submit your
3 invoices and upload your documents. You will be able
4 to invoice in two ways. You can either type in
5 manually the information that's required and upload it
6 or you can create a file, if you have a lot of cases,
7 and import it into system, whichever works best for
8 you.

9 The Department will be providing training.
10 We've tried to make it as easy to use as possible.
11 When you invoice that will expedite the way in which
12 your invoices are processed by the Department. And
13 hopefully the pain that comes with having to learn a
14 new system will be mitigated by the advantage of having
15 your invoices processed quickly and more efficiently.
16 So things like duplicate invoices, anything of that
17 nature, you're going to know before you send it to us.
18 The system will tell you, this case has been billed for
19 previously, or for whatever reason it's not eligible to
20 be billed. So any sort of back and forth conversations
21 that we have had previously about invoices should be

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1 eliminated by using this system.

2 The third thing that you need to know is that
3 we have some minimum standards set in the scope of work
4 about the amount of time that you spend working on
5 these cases, and the number of times that you see the
6 client. You will note that previously the minimum
7 standard had been six hours per case, per year you were
8 supposed to spend working on these cases, and you were
9 supposed to see the client twice per contact year.
10 What we recognize is that these cases sort of run the
11 gamut between being very intense and really sort of low
12 level, one time appearance in court. And these
13 statistics we're being asked about your performance to
14 provide to DBM. So we took all that into consideration
15 and did some analysis, and it seemed more reasonable to
16 us -- and believe me, we're not saying to you only
17 spend six hours. We're just saying to you the floor is
18 six hours now, per year, per client, under the
19 contract, and that the requirement is that you see the
20 client once every six months. So that if you pick up
21 the case, you know, four months into the contract year,

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1 the expectation of the Department is that you're going
2 to have seen at the end of the contract year that
3 client at least once. That seemed to be a little bit
4 more realistic marker, particularly since we're going
5 to be required to report your case activity for review
6 outside of our agency.

7 One of the other things that we have tried to
8 address is the need for some sort of payment for
9 vendors when there are cases that actually are settled.
10 Instead of having full blown hearings you reach a
11 settlement with the petitioning party. The
12 documentation that you submit to the court and
13 appearance in court to have the petition dismissed is
14 going to be sufficient for billing for us. You do the
15 work on the front end, and the case is resolved without
16 having a full blown hearing, the Department believes
17 that that's a case that you would in fact should be
18 able to bill the Department for because you've actually
19 done a great deal of work on the client's behalf.
20 You've resolved it outside of having a judge decide.

21 MS. MALINOWSKI: Where are you in this?

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1 MS. DAVIS: I'm talking about the scope of
2 work. It's one of the invoicing. It's under
3 invoicing. One of the categories of cases that you can
4 bill for, Section 3.6.

5 MS. MALINOWSKI: Okay. Thank you.

6 MS. DAVIS: One of the other things that we're
7 hoping will help these contracts run a little bit more
8 smoothly is that in the jurisdictions where there are
9 multiple awards, we're going to be providing the
10 judiciary with calendars. This is an attempt to try to
11 cut down on any sort of back and forth about who should
12 be getting cases. We put everyone on a calendar. And
13 to be quite frank with you, we're hoping that the
14 providers will assist us in creating the calendar. We
15 have no interest in which day you have. We would hope
16 that anyone that's in a jurisdiction would be able to
17 work with the other provider to work out a calendar on
18 a yearly basis, taking into consideration everyone's
19 vacations and all the other things that you need to
20 take into consideration. And only if the vendors are
21 unable to come to an agreement themselves will the

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1 Department actually produce the calendar.

2 The other thing that I -- and I'm sure that
3 Ms. Rawlings will cover this, but I want to make it
4 really clear to everyone, is that these contracts, you
5 know, you're reimbursed for your work on a fully loaded
6 fixed unit rate. And when you're calculating how much
7 you're going to bid for these cases, and I'm not trying
8 to suggest you should bills millions and millions of
9 dollars, but be realistic because we expect for you to
10 provide representation for the entire 12 months. And
11 so you have to weigh whether the amount that you're
12 bidding is actually going to cover your costs because
13 our expectation is it will. So if you're paid that
14 fully loaded fixed rate until the end of that contract
15 year ends, you're supposed to be available to provide
16 representation in court or at APGRB no matter how many
17 times you have to go back and forth to court, no matter
18 how many reviews you have, we expect you to show up and
19 perform. So please take that into consideration when
20 you are calculating what you think it's actually going
21 to cost you to represent these clients for the full

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1 year.

2 I think the last thing that I wanted to cover
3 with you is, there's something that seems -- it doesn't
4 seem to be an issue but in very limited circumstances.
5 I think the Department's expectation is that if at the
6 beginning of the case this client is deemed indigent
7 and then at the end or in the middle somewhere you sort
8 of determine or find out that the person has assets,
9 we're asking -- or actually, we're requiring that the
10 providers not bill the Department and then pay the
11 Department back if there are assets and they file a
12 petition for attorneys fees. If this is a case that
13 you intend to file a request for attorneys fees, don't
14 bill that Department until that issue is resolved.
15 There's been a practice previously of billing the
16 Department and if you get the money six, 12 months
17 later paying the Department back. Tracking that
18 information is something that is almost impossible to
19 do because we're not a party to the documents. We
20 don't know whether or not the petition has been, the
21 request has been filed, granted, and whether or not the

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1 guardian of property has actually paid the bill.
2 Running behind to provide that sort of verification
3 with multiple providers is just something that we can't
4 do. So in order to eliminate that, we're asking you,
5 if this is a case where there are potentially assets,
6 that you do not bill the Department in anticipation of
7 filing a motion for attorneys fees. If this case, a
8 case, you think the person has assets and you've chosen
9 not to bill the Department, you won't be penalized for
10 billing the Department later. Our expectation is that
11 you're going to try to, if you choose to, you may --
12 the person may have assets, and if you bill the
13 Department we're not going to ask you to pay us back
14 and go back and pursue the fees. We're just saying,
15 don't take our money knowing that there is money out
16 there that you are going to attempt to get money from
17 the estate. Do it the other way around. Attempt to
18 get money from the estate and then if there is no money
19 you can bill the Department for the case.

20 So Ms. Rawlings is going to further explain
21 the invoicing process. I'm going to turn it over to

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1 her.

2 MS. RAWLINGS: Good afternoon. I'm Teminka
3 Rawlings. I'm going to be touching on some of what
4 Audre has already touched on. But just to kind of
5 reiterate, only bill for -- because I'm going over
6 invoicing -- only bill for eligible billable events.
7 We don't need an accounting of how many hearings you've
8 attended that were not eligible for billing. Only
9 submit electronically, now that we're moving towards
10 having a case management system, only submit for
11 eligible, billable events. And you'll also be
12 submitting your court orders and your appointment
13 orders electronically. Invoices submitted without
14 those required documents will not be processed for
15 payment. And the Department does reserve the right to
16 reduce or hold your contract payment in the event that
17 you do not provide, again, any of the required
18 deliverables.

19 Also, the contractor shall submit invoices by
20 the 20th of the month. Those who are incumbents are
21 aware of this. It's not a new term. Invoices

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1 submitted more than 60 days past the end of the
2 contract year, including option years, will be reduced
3 to 50 percent of the fully loaded fixed unit price.

4 And again, just to reiterate, that fully loaded fixed
5 unit price should include everything that's needed for
6 representation and to -- and for you to advocate
7 zealously for your client. That should be everything
8 included. Contractor shall not receive payment for
9 postponements under any circumstances.

10 If the contractor believes that the client
11 has assets -- again, this touching on what Audre said
12 -- if you're aware that the client has assets you're
13 not to bill the Department. You're to notify the
14 Department and also to communicate with the guardian of
15 property. In the event that a contractor is notified
16 that a client has assets and/or is not indigent after
17 the case has been invoiced, the contractor shall serve
18 MLSP when filing a motion for attorneys fees and shall
19 return the previously invoiced amount to the Department
20 within 10 business days of receiving payment from the
21 client. The failure of the contractor to perform

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1 required case activities for the remainder of the
2 contract year after receipt of an annual case payment
3 will be a factor in whether the contractor is assigned
4 future cases and may result in termination of the
5 contract. Again, please review section 3.6 in it's
6 entirety for further details on invoicing requirements,
7 and also review this RFP in its entirety so that you
8 know what deliverables are required for the contract
9 annually as well as monthly. And that's it.

10 MS. WILLIS-GRAY: We also just wanted to
11 bring to your attention Section 3.8, which is the
12 insurance requirements. Contractors must be able to
13 meet the following insurance requirements. And I'm not
14 going to read everything verbatim. I'm just going to
15 highlight this for you. Commercial general liability
16 insurance with a limit of 500,000 per occurrence and
17 one million in aggregate; malpractice professional
18 liability insurance with a minimum limit of 500,000 per
19 claim and annual aggregate. Maintain automobile and/or
20 truck, commercial truck insurance with liability,
21 collision, and PIP limits no less than those required

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1 by the State where the vehicle is registered, but in no
2 case less than those required by the State of Maryland,
3 and employee theft insurance with minimum limits of
4 100,000 per occurrence.

5 And now we'll move onto Section four,
6 proposal format. It should be on page 45 I think. So
7 when you're submitting your proposal it's going to be a
8 two-part submission. You're going to have volume one,
9 which is your technical proposal, and you're going to
10 have volume two, your financial proposal. It is
11 preferred that the name, email address, and telephone
12 number of the offeror be included on the outside of the
13 packages for each volume. Each volume shall contain
14 one original and four copies. It is preferred that the
15 two sealed volumes are submitted together in a single
16 package with a label that includes the RFP title and
17 number, jurisdictions proposed to provide the services,
18 name and address of the offeror, and closing date and
19 time for receipt of proposals. And just to remind you
20 again, that's June 6, 2016, at 1:00 p.m.

21 The proposal should also include an

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1 electronic submission, which should be on CD or DVD.
2 One CD should be submitted with the technical proposal.
3 It should include, which will be for volume one, the
4 technical, an electronic Word version, and then also a
5 pdf Adobe format. It should be redacted for any
6 confidential or proprietary information.

7 The second electronic submission will be
8 submitted with the financial proposal, volume two. It
9 should contain the financial proposal in Excel format
10 and also an Adobe pdf searchable that is redacted for
11 any confidential or proprietary information.

12 Offerors may either mail or hand deliver
13 proposals, that's June 6, 2016, at 1:00 p.m. We ask
14 that if it's mailed it is considered on time if it has
15 been received by the appropriate mail room, or typical
16 place of mail receipt for the respective procuring
17 agent unit by the time and date listed in the RFP. The
18 Department recommends that you use express mail,
19 priority mail, or certified mail. These are the only
20 forms for which both the date and time of receipt can
21 be verified by the Department. If a proposal is hand-

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1 delivered, we advise you secure a dated, signed, and
2 time stamped or otherwise indicated receipt of
3 delivery.

4 Now we'll move onto Section 4.4 of the RFP,
5 which provides more detailed information on the
6 submission of volume one, technical proposal. We won't
7 go over all this, but we ask that you review this
8 section in detail as to how your technical proposal
9 should be submitted. Just keep in mind that the
10 technical proposal should not include any pricing
11 information. And inside it's going to have one unbound
12 original and four copies with the electronic version.
13 An offeror submitting proposals for more than one
14 jurisdiction shall provide one technical proposal
15 regardless of the number of jurisdictions proposed to
16 serve. If there are any variations in service delivery
17 based on jurisdiction nuances, those variations shall
18 be described in detail on a separate page for each
19 jurisdiction so affected and appended to the technical
20 proposal. So no need to give us a bunch of proposals
21 for various jurisdictions. Just one should be a lot

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1 easier.

2 Each section of the technical proposal shall
3 be separated by a tab as indicated in Section 4.4.2.
4 The technical proposal should also reference the
5 organization and numbering of sections in the RFP. So
6 for example, if you're working on a response to Section
7 3.2.1, which is general requirements, you would say,
8 response to Section 3.2.1, and list how you are going
9 to provide that service. Also, if you're referencing a
10 reference section, Sections 4.4.2.1, which is the table
11 of contents, which is 4.4.2.1, indicate your table of
12 contents. The same thing if you're listing, if you're
13 providing a response to Section 4.4.2.2, which is the
14 claim of confidentiality, state the section, claim of
15 confidentiality, and provide the information.

16 The financial proposal should be in a sealed
17 package separate from the technical proposal and
18 clearly identified. The offeror shall submit an
19 original and four copies of the financial proposal as
20 it is formatted in attachment F. The offeror shall
21 complete the financial proposal form only as provided.

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1 An offeror submitting proposals for more than one
2 jurisdiction shall produce a separate financial
3 proposal for each jurisdiction, a separate envelope and
4 labeled with the name of the jurisdiction. I'm sorry,
5 in a sealed and separate envelope with the name of each
6 jurisdiction, of that jurisdiction.

7 So evaluations of proposals can be found in
8 Section five. Evaluations of proposals will be
9 performed in accordance with COMAR 21.05.03 by
10 committee established for the purpose and based on the
11 following criteria in order of importance. The first
12 criteria is offeror's technical response to the
13 requirements and work plan. It is preferred that the
14 offeror's response to the work requirements in the RFP
15 illustrate comprehensive understanding of the work
16 requirements and mastery of subject matter, including
17 an explanation of how the work will be done. Proposals
18 which include limited responses to the work
19 requirements such as concur or will comply will receive
20 a lower ranking than those proposals that demonstrate
21 an understanding of the work requirements and include

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1 plans of how it will meet or exceed them.

2 Criteria two. Experience and qualifications
3 of proposed staff. And then the last criteria,
4 offeror's qualifications and capabilities including
5 proposed subcontractors. Each criterion has equal
6 weight.

7 All offerors will be ranked from lowest, most
8 advantageous, to highest, least advantageous -- and I'm
9 sorry, moving onto financial proposal evaluation. All
10 qualified offerors will be ranked from lowest, most
11 advantageous, to highest, least advantageous, based on
12 price of the technical proposal as stated in guidelines
13 set forth in the RFP and as submitted on attachment F,
14 which is the financial proposal.

15 The contract will be awarded in accordance
16 with the competitive sealed proposals method. The
17 State may conduct discussions with offerors that have
18 submitted proposals that are determined to be
19 reasonably susceptible of being selected for contract
20 award or potentially so. However, the State reserves
21 the right to make an award without holding discussions.

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1 In either case the State may determine an offeror not
2 to be reasonable and/or an offeror's proposal not to be
3 reasonably susceptible for being selected for award.
4 That offeror's financial proposal will be returned if
5 the financial proposal is unopened at the time of
6 determination.

7 Award determination. Upon completion of the
8 technical proposal and financial proposal evaluation
9 and rankings each offeror will receive an overall
10 ranking. The procurement officer will recommend award
11 of the contract to the responsible offeror that
12 submitted a proposal determined to be most advantageous
13 considering technical factors and financial factors.
14 Technical factors and financial factors will have equal
15 weight.

16 In an attempt to maintain continuity of
17 representation to adults involved APS/APGRB cases for
18 the final award determinations for existing cases only
19 preference will be given to offerors that are current
20 providers that wish to keep their current cases, but do
21 not wish to take on new cases or were not recommended

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1 for award of the new contract, provided that it is
2 determined to be in the best interest and most
3 advantageous to the State after the evaluation of
4 proposals.

5 And then also, just another reminder that
6 proposals, they're going to be due on June 6th at 1:00.
7 We cannot accept late proposals.

8 So that concludes the review of the RFP.
9 We're going to open up the floor to any questions that
10 you may have. And when you ask a question please
11 identify yourself and the company that you're
12 representing today for the record. Also, should there
13 be a discrepancy between any response that's provided
14 here today and any written response provided in the
15 future, the written response will prevail.

16 MR. SKOLNICK: Shelly Skolnick, Skolnick Law
17 Firm. On the documentation for the invoicing, are you
18 requiring that some document that the attorney
19 actually appear. And you explain that for the
20 hearings, the APS hearings. For the APGRB a document
21 just indicating all the cases that were heard at that

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1 APGRB meeting?

2 MS. DAVIS: So APGRB is, we plan to get the
3 documentation. So there's a sign-in sheet and the
4 local Department of Social Services creates an agenda
5 identifying which cases are heard. We're going to work
6 the APGRB documentation out internally. It's when you
7 appear in court, the place that we don't have access to
8 at this point that we're asking that you provide that
9 documentation.

10 MR. SKOLNICK: Okay.

11 MS. GRIMES: Meisha Grimes, Grimes Legal
12 Group. In Baltimore County where you anticipate
13 possibly awarding three contracts, it indicates that
14 you would, the days for the ranking. Are the days
15 based on the dates that the petition was filed or is it
16 going to be based on the date that the petition will be
17 heard?

18 MS. DAVIS: So in Baltimore County and
19 Baltimore City it seems to be the most efficient to
20 work through, in Baltimore County the trust clerk, and
21 in Baltimore City the Magistrate's office to say, if

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1 you get a petition and you're going to be looking for a
2 lawyer on this day, this who you call. Does that
3 answer the question?

4 MS. GRIMES: Yes.

5 MS. MALINOWSKI: A lawyer to do what, attend
6 a hearing or to take the case?

7 MS. DAVIS: Just like you guys receive phone
8 calls right now about cases, the same thing will
9 happen. Your process will not change. It's just the
10 Magistrate's office and the trust clerk will say, on
11 this day, if I need to make a phone call, this is the
12 firm that I call. So whatever decision process -- we
13 can't control what they do. We just give them
14 information about whose number they dial depending on
15 the day.

16 MS. MALINOWSKI: But that's in conflict with
17 what it says in the RFP. It says the hearing day.

18 MS. DAVIS: So I'm not -- so it may say the
19 hearing day, and we can publish a written response,
20 but we have to take each jurisdictions nuance into
21 consideration. So if the trust clerk in Baltimore

1 County thinks that -- I mean, the hearing dates are
2 scheduled, you know, sort of randomly. So I think for
3 the expedited cases you guys are asked to agree on a
4 day. However it works best for the judiciary is how
5 it's going to work. So nothing is going to change for
6 you all. It's only going to change in terms of whose
7 up to bat first on each particular day. So whatever
8 the court decides, if they want to assign the cases, if
9 a trust clerk wants to assign the cases according to
10 the hearing dates, and if you're the first person, it's
11 your day to get it, and it conflicts with whatever,
12 your vacation that no one can be available to take it,
13 then the same thing will happen. The number two vendor
14 will then get the phone call. So it's just a matter of
15 clarification so that everybody is on the same page
16 about how the cases are going to be assigned.

17 MS. MALINOWSKI: So what's stated in here is
18 not necessarily what's going to happen?

19 MS. DAVIS: So I would like to give the
20 opportunity for the fine details to each jurisdiction
21 because I can't control what the trust board does, I

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1 can just tell them the day, or what the Magistrate's
2 office does. We can just tell them the day.

3 MS. RAWLINGS: Don't forget to identify
4 yourself. That was Carolyn Malinowski from MVLS.

5 MS. WILLIS-GRAY: We'll also take a look and
6 see if we may need to make some changes. Thank you.

7 MS. GRIMES: Just for point of
8 clarification. Meisha Grimes with the Grimes Legal
9 Group. Because the hearings are only held on Fridays,
10 based on my understanding of the date of filing, which
11 would be the start of the calendar. So if it is a
12 Monday petition filed in the court and that's someone's
13 particular day, they would call that person to give the
14 case based on the 50, the 30, and the 20. And then in
15 Baltimore County we schedule our own cases. It's just
16 that based on what is written it just says calendar
17 days. So it needs to specify the filing of the
18 petition, because all of the cases are going to be
19 currently held on Thursday unless the jurisdiction
20 changes something. So if it's filed on a Monday or a
21 Tuesday, then it's 50 percent, then whoever that

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1 individual is, they would receive the call and then
2 ultimately schedule their Thursday.

3 MS. DAVIS: So I understand what you all are
4 saying. I completely understand. I guess what I'm
5 saying to you all is, we're going to do our best to
6 make sure that whatever day the phone call is made that
7 the person knows who to call first. So whether they
8 make the phone call on the day the petition is filed or
9 if it's a practice to make the phone call the next day,
10 I can't control that, right? All I can do is say the
11 day you pick up the phone to assign this case to
12 someone, to see if someone is available, whether that's
13 the hearing date, the petition file date, you know, it
14 was meant to be sort of generic so that -- and these
15 are the only two jurisdictions, Baltimore City and
16 Baltimore County, whatever their process is is not
17 interrupted. They're just receiving a daily direction
18 from the Department about who to call. So if the
19 hearing dates are scheduled, which I assume thereafter,
20 we're not trying to control that. It's just who does
21 the court appoint to represent on any given day a

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1 petition that they need to provide representation for.

2 MS. WHARTON: Kim Wharton. This is a
3 question for probably Teminka. When I submit the --
4 when I used to submit the reports to you, there's
5 billing and then there's invoicing?

6 MS. RAWLINGS: Yes.

7 MS. WHARTON: So now you're saying you're
8 only required submit the distinct case management
9 system, just the invoicing cases no longer the billing?

10 MS. RAWLINGS: No.

11 MS. WHARTON: Or the reporting of the files
12 that we've worked on?

13 MS. RAWLINGS: Exactly. So your deliverables
14 for invoicing will go through the system, be that your
15 case lists as well as the invoice form, because it will
16 be generated through the system.

17 MS. WHARTON: Right.

18 MS. RAWLINGS: But your monthly deliverables
19 or your annual deliverables, those will be submitted in
20 paper because we're not set up yet to receive those
21 electronically. So any reports that you have to

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1 provide us with will still come paper.

2 MS. WHARTON: And one other question. The
3 reporting for the reports, the economic reports and the
4 training requirements, are they now going to be
5 annually or are they still going to be quarterly?

6 MS. RAWLINGS: I believe we changed those to
7 annual reporting. But all of which is in the RFP.
8 Just review the RFP.

9 MS. WHARTON: Okay.

10 MS. RAWLINGS: And you will have the option,
11 however, of sending those electronically. Kind of like
12 when you email us, you can still do that with the paper
13 forms or even your electronic copy.

14 MS. WHARTON: Okay. All right. Thank you.

15 MS. MALINOWSKI: Carolyn Malinowski, Maryland
16 Volunteer Lawyers Service. Ms. Davis said that on
17 attachment DD, the certificate of attendance, that it's
18 going to be required to be notarized. How are we to go
19 about that, because I'm not sure that the court clerks
20 are going to be notaries?

21 MS. DAVIS: I don't think I said notarized.

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1 So I think that what we're anticipating is that it will
2 be stamped by the courtroom clerk. You know how you
3 have a witness who comes and they have to provide
4 verification that they attended a hearing, they have
5 those preprinted forms, the court clerk stamps it with
6 a seal, that's the kind of independent documentation
7 that the auditors are requiring that we receive.

8 MS. MALINOWSKI: Okay. But you can check to
9 see what was said, notarized or not? I thought you
10 said notarized.

11 MS. DAVIS: I mean, I'm pretty sure it's not
12 notarized because not every court clerk is a notary.
13 That would be non-sensible.

14 MS. MALINOWSKI: And that's going to be
15 clarified?

16 MS. WILLIS-GRAY: We'll review it and publish
17 an answer to your question.

18 MS. MALINOWSKI: Has this document been
19 cleared through the court that they will participate in
20 doing this?

21 MS. DAVIS: Whether the clerk's office will

1 stamp it?

2 MS. MALINOWSKI: (Nods head affirmatively.)

3 MS. DAVIS: That is an issue that the
4 Department will be addressing with the judiciary.

5 MS. MALINOWSKI: So no, it hasn't been
6 cleared?

7 MS. DAVIS: I'm not the person making that
8 call. So I assume that it will be. But you have the
9 other option of also providing the court order that
10 indicates that you were present at the hearing. If it
11 indicates that.

12 MS. MALINOWSKI: They don't.

13 MS. DAVIS: There are standards -- so the
14 judiciary you know is going online with electronic
15 documents. Whether the documents are going to include
16 who was actually present at each hearing, I'm not sure
17 about, whether it's going to note that. But I assume
18 that moving forward your court orders are all going to
19 be uniform across the State. Not I assume. I know
20 already they're going to be uniform. So it may not
21 answer that question. You may actually have to produce

1 the other document. Our hope is that as the judiciary
2 comes on line with an electronic universal system that
3 we'll be able to phase that part of the verification
4 out, that we'll be able to get that information
5 directly from the judiciary. But when that's going to
6 happen, I don't know. So this is basically a stop gap
7 measure so that the auditors are satisfied that there's
8 proof that the hearings actually took place and that
9 you appeared.

10 MS. MALINOWSKI: So on page 40 it references
11 the court order, ut it doesn't say what type of court
12 order, an order appointing counsel or a order
13 appointing guardian. And then under that it says
14 appointment order. And is that an order appointing
15 counsel? Because there's another thing that's titled
16 appointment order. I'm just confused as to --

17 MS. DAVIS: I'm just trying to find out where
18 you're looking on page 40?

19 MS. MALINOWSKI: Three point six point one.

20 MS. DAVIS: Three point six point one.

21 MS. MALINOWSKI: Under "A."

1 MS. DAVIS: Right.

2 MS. MALINOWSKI: It lists all the different
3 things that you have to have.

4 MS. DAVIS: Uh-huh. So a court order. What
5 else? Show cause, motion hearing, whatever the
6 document is called that proves that you were there that
7 day, and that there was a hearing in front of the
8 judge, that's the court order that we're looking for,
9 that you actually appeared. The appointment order,
10 whatever term of art is used in each jurisdiction that
11 is the document that says that you, Carolyn Malinowski,
12 and Maryland Volunteer Lawyer Service has the
13 appointment by the court to represent that client,
14 that's what we're looking for. Identifying that the
15 court has ordered that you show up for that hearing,
16 and some documentation that indicates that you actually
17 had a hearing on behalf of the client, and that you
18 were there. So those two elements have to be satisfied
19 no matter what the documents are called. So if on the
20 same document it articulates that the court appointed
21 you to represent this client, and that you had a

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1 hearing on this day, then you would submit the one
2 document. If it's done in two ways, then both
3 documents are required. So the point is, they want to
4 know that you didn't just walk in and enter your
5 appearance on a case. They want to know that a judge
6 said for you to show up, and they also want to know
7 that you actually showed up.

8 MS. MALINOWSKI: So a hearing notice, would
9 that suffice, or an appointment order?

10 MS. DAVIS: It depends on what it says. We're
11 looking for the magic words, right. Like we -- trust
12 me, they were in our office for months. We tried to
13 have this conversation. The auditors believe that
14 there has to be specific, detailed documentation that
15 you were authorized to appear on behalf of that client.
16 So they want to see that you have been appointed to
17 represent that client. We tried to explain to him,
18 the bench doesn't handle these cases in that same
19 format in every jurisdiction. We were unable to reach
20 a resolution. That's why it's in the RFP. That's
21 what's required. There's no way around it for us.

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1 MR. DRAGER: My name is Arthur Drager. And
2 I'm just trying to help clear up what sounds like a
3 little confusion on this. The statement was made by I
4 think Ms. Davis before that if a case is resolved we're
5 not -- we, the State, aren't going to penalize the
6 providers and they'll still get paid. Now, there are
7 cases a provider goes out, interviews the patient, may
8 file a response, and either the case is then in some
9 way resolved, because the patient either regains
10 capacity, family shows up, so the petitioning attorney
11 can dismiss the case or petition to dismiss it, or a
12 patient dies. So then there is no court hearing. So
13 then if there is no court hearing does that then mean
14 that the provider will not get paid or will get paid?

15 MS. DAVIS: So the provider will be paid.
16 Unfortunately, if they appear in court when the
17 petition is withdrawn, dismissed or whatever happens to
18 it. So it's an attempt to sort of reach a happy
19 medium. We can't pay for something that we can't
20 verify. And they don't mean verified. The auditors
21 are saying not verified because you affirm that you

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1 represented someone or that you engaged in a settlement
2 negotiations, and you spent however many hours. They
3 want independent confirmation about what happened. The
4 only way that I know of to do that is to show up and
5 say to, you know, Judge Handy, Your Honor, we've called
6 the matter, and we've resolved this, and the petition
7 is going to be filed. There's your hearing, there's
8 your appearance, you know, it's all resolved in that
9 fashion.

10 MR. DRAGER: So then if a patient dies, and
11 a facility were to dismiss the case they still have to
12 go to a hearing, so the vendor/provider can be paid?

13 MS. DAVIS: Yes. I recognize, you know, I
14 recognize that that's not the practical way that the
15 cases are handled. Unfortunately, we're required to
16 have some sort of independent evaluation. And that's
17 what we were basically instructed to -- what's required
18 to justify paying the money for it.

19 MR. DRAGER: I just had one other question.
20 A statement was made that you all want to see the
21 vendors be able to earn a living doing these cases.

1 And you require a minimum of six hours per case. The
2 only way a vendor could even, in any knowing way,
3 submit a bid would either be that their hourly rate of
4 such and such be the bid or the vendor would need to
5 know the volume of cases in a particular jurisdiction
6 with a cap on the volume that they would be required to
7 handle. In other words, I think the vendors need more
8 information on what they're bidding on.

9 MS. DAVIS: So I'm not sure what the question
10 is. Are you asking -- what are you asking the
11 Department to provide that would assist you in making
12 that determination?

13 MR. DRAGER: Well, I guess the question
14 would be, is it a bid based on the volume or an hourly
15 rate? Because if it's a minimum of six hours per case,
16 it's impossible to submit a blanket proposal that would
17 be the minimum that the vendor could handle and earn a
18 living with, or is it a bid based on an hourly rate
19 being charged?

20 MS. DAVIS: And so we're not -- it's a fully
21 loaded fixed unit rate. So whatever rate you used to

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1 calculate it, I mean, you're going to have to do your
2 best estimate. I don't think that there's anything
3 that we can do to tell you how many cases to expect,
4 except to give you the possible projections and to tell
5 you how many days you potentially will be assigned in a
6 calendar year.

7 MR. DRAGER: Okay.

8 MS. DAVIS: I don't think that we can provide
9 you with more than that.

10 MR. DRAGER: Okay.

11 MS. SCHUBERT: But you can provide -- I'm
12 Debra Schubert. You can provide that? I'm new to all
13 this. So I'm trying to figure out what the work load
14 could possibly be.

15 MS. DAVIS: Well, I think that --

16 MS. SCHUBERT: How do we handle --

17 MS. DAVIS: So there's an attachment in here
18 that gives you the case projections for each
19 jurisdiction. They're just, you know, based on some
20 sort of calculation. We don't know at what rate the
21 petitions will be filed, and by whom, and anything of

1 that nature. But this is based on past history and
2 projections.

3 MS. SCHUBERT: Okay.

4 MS. DAVIS: And then I believe attachment BB1
5 is your requested case load form. So you tell the
6 State --

7 MS. WILLIS-GRAY: Attachment BB will be the
8 projected case load.

9 MS. DAVIS: I'm sorry.

10 MS. WILLIS-GRAY: Attachment BB1 is your
11 requested case load form where you submit how many
12 cases you would like to receive.

13 MS. DAVIS: How many you would like to
14 receive. How many you think your firm could handle
15 during the duration of the contract. There's a one to
16 150 at any one time case maximum. You can have 150
17 cases open at any one time. But you tell us how many
18 cases you think your firm can handle depending on how
19 many people are going to be providing the service
20 during the contract period.

21 MR. SKOLNICK: Shelly Skolnick. Back on the

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1 invoice and documentation, the order of appointment.
2 If you're a law firm with several attorneys could the
3 order of appointment name all the attorneys or would it
4 be sufficient just to name the law firm?

5 MS. DAVIS: It's the firm. We have the
6 contract with the firm. So as long as the firm is
7 appointed, the auditors are not looking for the
8 specific name.

9 MR. SKOLNICK: Okay. Good. Thank you.

10 MS. DAVIS: Yes?

11 MR. KING: Barrett Kind, King Hall. Sort of
12 to that point. If an attorney has enough counsel
13 relationship with another firm would it be okay if
14 attorneys at that other firm were to work on any of
15 these cases or no?

16 MS. DAVIS: I think there's a no
17 subcontracting clause as a part of --

18 MR. KING: But I wouldn't consider that
19 necessarily subcontracting if they're, if we're co-
20 employees in separate firms.

21 MS. DAVIS: So I think we probably will have

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1 to provide a written answer to that. I'm not sure what
2 -- who pays Workman's Comp, who provides malpractice
3 insurance, and who they have an employment contract
4 with are probably some of the fine details that would
5 have to be ironed out. But that's interesting. We'll
6 try to find an answer and publish it.

7 MR. KING: Thank you.

8 MS. WILLIS-GRAY: Yes?

9 MR. COMEAU: Jerry Comeau From Ria P.
10 Rochvarg. My question is regarding the minimum
11 requirements. The current contract did not bar using
12 judicial law clerk time towards meeting the minimum
13 experience requirement. If an attorney qualifies under
14 this current contract, say in December of this year,
15 but would not qualify under the new contract, would
16 that attorney be qualified to be able to work under the
17 new contract?

18 MS. DAVIS: So we'll publish an answer to
19 that. I think that we have come across this issue
20 previously. And our directions to the providers have
21 been that the law clerk time didn't count. We wanted

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1 for two years of actual in the court room, I'm a member
2 of the bar experience to qualify under the previous
3 contract and the new one moving forward. But we can
4 provide a written response.

5 MR. COMEAU: Thank you.

6 MS. WILLIS-GRAY: Are there any other
7 questions?

8 MS. GRIMES: Meisha Grimes, Grimes Legal
9 Group. For invoicing are we still invoicing all the
10 cases by the 20th or can we invoice them in the new
11 system if we have 10 here and as long as we do them all
12 by the 20th, can we do them together or can we invoice
13 them separately as long as they're done by the 20th?

14 MS. DAVIS: So we anticipate that you'll be
15 able to invoice them, as long as they're invoiced by
16 the 20th. This system is going to be available at all
17 times.

18 MS. WHARTON: When will the system be ready?

19 MS. DAVIS: So we're hoping that it's going
20 to be ready in the next few weeks. So I would expect
21 the training to occur prior to the start of the

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1 contract. We're also going to be providing a manual,
2 and also technical assistance if you need it. So if we
3 can use it, I promise you'll be able to use it. I
4 mean, the technology that we sought to develop, we've
5 said it needs to be as easy as going up to an ATM and
6 putting your card in, and being able to figure it out.
7 So it's user friendly.

8 MS. SULLIVAN: Bonnie Sullivan with Maryland
9 Volunteer Lawyers Service. I have a question about the
10 current contract, when it ends, when the new one
11 begins, and if the agency is, if it's going to be a
12 six-month or seven-month period between the end of the
13 current contract. Are you exercising your option or
14 are we going to be permitted to bill at the rate that
15 we had proposed in the option years? Will there be
16 contract extensions? What happens in the interim
17 period between the end of our current contract and the
18 start date I think in February?

19 MS. WILLIS-GRAY: We would actually need to
20 respond to you in writing to the question.

21 MS. SULLIVAN: Okay.

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1 MS. WILLIS-GRAY: Thank you.

2 MR. MEEHAN: Did I hear you correctly that
3 there was no subcontracting?

4 MS. DAVIS: Absolutely.

5 MR. MEEHAN: Okay. Do you know where that is
6 in here, roughly?

7 MS. DAVIS: Sorry. Bear with us while we look
8 for it. Are there any other questions that we can
9 answer?

10 MS. WILLIS-GRAY: Section 3.2.11.1.

11 MS. DAVIS: Could you state it a little bit
12 louder, please?

13 MS. WILLIS-GRAY: Section 3.2.11.1.

14 MR. MEEHAN: Thank you.

15 MS. WILLIS-GRAY: Page 30. Any other
16 questions?

17 (No response.)

18 MS. WILLIS-GRAY: All right. Well, thank
19 you all for coming out again. We appreciate you
20 coming. We hope that you all submit a proposal. And
21 we'll be looking forward to your responses. And I hope

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1 you all have a great day. Also, if anybody has not had
2 the opportunity, if you could sign in in the back, it
3 would be greatly appreciated.

4 (Whereupon, at 2:10 p.m., the hearing
5 was concluded.)

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I, KATHLEEN A. COYLE, the officer before whom the foregoing testimony was taken, do hereby certify that the witness whose testimony appears in the foregoing transcript was duly sworn by me; that the testimony of said witness was taken by me by stenomask means and thereafter reduced to typewriting by me or under my direction; that said testimony is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this testimony is taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.

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