

**TOWN OF EXETER
Request for Proposals**

LEGAL SERVICES

The Town of Exeter, NH is currently inviting proposals from qualified attorneys and/or legal firms to provide Municipal Legal Services to be utilized by various town departments, as needed.

Specifications may be obtained at the Town Office, 10 Front St, Exeter, NH. Proposals are due by Friday, April 1st at 4:00 PM, and it is expected that the contract will be awarded by May 1st, 2019.

The Town reserves the right to reject any and all proposals, to award proposals in whole or in part, waive technicalities or informalities, and to accept any proposal deemed to be in the best interest of the Town.

BID SPECIFICATIONS

LEGAL SERVICES

SECTION I - GENERAL REQUIREMENTS

- A. The Town of Exeter is requesting proposals from qualified attorneys and/or legal firms to provide Municipal Legal Services to be utilized by various Town departments, as needed beginning on or before May 1st, 2019.
- B. Technical and Cost proposals for legal services must be submitted to the Town Manager, Town of Exeter, NH, 10 Front St., Exeter, NH 03833 NOT LATER THAN 4:00 PM **April 1st, 2019**. Proposals are to be submitted in a sealed envelope clearly marked *Legal Services*, with Technical proposals submitted separately from Cost proposals. A bidder may attach any explanatory materials, brochures, or other documents which it may feel of use in the presentation of its bid.
- C. If it becomes necessary to amend, add to, or delete any part of the RFP, an addendum will be provided to all bidders who requested the original RFP or notified the Town Manager of the bidder's intent to respond to the RFP, and will be posted on the Town of Exeter's web page at exeternh.gov. A bidder's response must include acknowledgement of the amendment made to the original RFP, if an amendment was issued. In all cases, no verbal communication shall override written communication from the Town of Exeter. No person is authorized to amend the specifications in any respect by any oral statement or to make any oral representation or interpretation in conflict with the provisions of the specifications in the RFP or amendments to the RFP.
- D. Technical proposals will be publicly opened on April 8th, 2019 by the Select Board or designee, and a contract will be awarded in accordance with the Town's purchasing policy. Contracts above \$25,000 in value require approval of the Select Board.
- E. The Town will not be responsible for late mail deliveries and no proposal will be accepted if received after the time stipulated above. No facsimile proposals will be accepted. Any unopened proposals will be returned to the vendor. All inquiries regarding the specifications, shall be directed to:

Town of Exeter
Russell Dean, Town Manager
10 Front St., Exeter, NH 03857
(603) 778-0591 via email at rdean@exeternh.gov

The Town of Exeter is a Tax Exempt organization.

All proposals shall be valid for at least 60 days from the due date. No proposals may be withdrawn prior to 60 days from the due date. The Town may request additional information after the proposal opening.

- F. The Town reserves the right to reject any and all proposals, either in whole or in part; to waive any defects, informalities and/or irregularities in proposal responses; to accept substitutions or exceptions to these requirements; to negotiate with the successful vendor; and to otherwise act as shall be determined by the Board of Selectmen to be in the best interest of the Town. The Town reserves the right to retain all proposals submitted.
- G. Costs incurred for developing a proposal are the sole responsibility of the bidder. There will not be any reimbursement for these costs. Any costs associated with oral presentations to representatives of the Town will be the responsibility of the bidder and will in no way be billable to the Town.
- H. By submitting a proposal, the bidder agrees that the Town of Exeter may copy the proposal for purposes of facilitating the evaluation of the proposal or to respond to requests for public records. By submitting a proposal, the bidder consents to such copying and warrants and represents that such copying will not violate the rights of any third party. The Town will have the right to use ideas or adaptations of ideas that are presented in the proposals.

SECTION II - TIME TABLE

The following schedule shall be adhered to under these specifications:

Request for Proposals Issued	February 19 th , 2019
Due Date for Technical & Cost Proposals	April 8 th , 2019 by 4:00 p.m.
Technical Proposal Opening	April 8 th , 2019
Interviews with Finalists	April 16 th – 23 rd , 2019
Cost Proposal Opening	April 23 rd , 2019
Anticipated Contract Award -	May 1 st , 2019

Proposals will be opened at 10 Front Street, Exeter NH at regular Select Board meetings. Select Board meetings are posted for 7:00 p.m. unless otherwise noted.

SECTION III - EVALUATION PROCESS

The evaluation process will include each technical proposal being reviewed by the Town Manager, Town Planner, Code Enforcement Officer, Select Board Chair, Planning Board Chair, and Zoning Board Chair. Other departments may be utilized in the process as needed. Based on this review, finalists will be selected to interview with the selection committee. After conducting the interviews, the evaluation committee will review the cost proposals submitted by the finalists. A final recommendation for award will be submitted to the Select Board for approval. Any contract resulting from this RFP will not necessarily be awarded to the bidder with the lowest price or fees. The contract shall be

awarded to the compliant proponent whose proposal best meets the needs of the Town of Exeter. The Town reserves the right to negotiate the terms and conditions of the contract with the successful firm or firms to obtain the most advantageous situation for the Town.

Proposals will be evaluated against specifications as presented in this document. No award will be made to any firm who cannot satisfy the town that they have sufficient ability and experience in this class of work and sufficient capital and plan to enable them to prosecute and complete delivery of the services successfully within the time named. Conditional proposals will not be accepted.

The evaluation process will consider the following:

1. Knowledge and experience in all aspects of general municipal law, including such areas as government structure and administration; finance, tax collection and assessing; road/transportation law, zoning and planning/land use law
2. Qualifications and background of designated professional(s) and support staff and location of firm's offices;
3. Knowledge and experience in the interpretation of state laws as they relate to NH municipalities for staff, boards, committees and commissions.
4. Knowledge and experience in the interpretation of federal laws as they relate to municipalities.
5. Knowledge and experience attending Town Meetings and advising the Town Meeting on legal matters.
6. Availability to attend meetings as requested, including but not limited to the Select Board, Planning Board, Zoning Board, Conservation Commission, and Annual and Special Town Meeting(s).
7. Ability to work effectively with the Select Board, Town Manager, the Town administration, and the Town's Boards and Commissions with respect to any of the services required by the Town, as well as an ability to work effectively with other public agencies having an interest in the Town's activities.
8. References in general;
9. Compensation proposal;
10. Other factor(s) if demonstrated to be in the best interest of the Town of Exeter

Contract Term

The term of the contract will be for a three (3) year period covering the date of award to 36 months later. At the end of this period, the Town will consider extending the agreement subject to town purchasing policy requirements. The contract terms will allow either the Town or contracted Counsel to terminate the contract earlier than the three years provided proper notice (60 days) is given to the other party.

SECTION IV - SCOPE OF WORK

The Town is interested in identifying and utilizing the services of one or more legal firms/attorneys for "as needed" legal assistance. The services requested include providing legal counsel in the form of written and verbal opinions and presentations, and

monitoring and representing the Town's interests before various judicial bodies and other entities. Specialized legal services are necessary in all areas of municipal law to include, but not necessarily limited to, municipal finance, tax assessment abatement issues, tax collection, planning/zoning and land use, and transportation. The Town will consider awarding a contract to a single legal firm/attorney or multiple legal firms/attorneys as deemed necessary to address the various specialties required. The Town is not seeking proposals for bond counsel at this time. The town is not seeking proposals for labor counsel at this time.

The legal services desired are more fully described as follows:

1. The chosen bidder will act as Town Attorney to the Town of Exeter. Counsel will provide advice and interpretation of municipal corporation law as it applies to the Town. Such information may involve federal laws as well as state and local statutes and ordinances.
2. The chosen bidder will represent the Town before administrative agencies and in court proceedings, conducting legal research, finding relevant facts, writing, and reviewing documents. Prosecutes municipal ordinance and code violations, and serves as defense counsel for law suits filed against the Town.
3. Acts as legal advisor to the Select Board and Town Manager in all areas of municipal law as well as Town Planner and Planning Board as needed for land use and code enforcement matters. Advises any other officer or department head of the Town in matters relating to his/her official duties when so requested and authorized by the Town Manager.
4. Receives assignments from the Town Manager for all areas. May receive assignment from the Select Board Chair if needed. The Town Planner and Code Enforcement Officer are also authorized to engage the services of counsel when planning or zoning issues of a legal nature are involved.
5. The Attorney(s) will prepare and review all ordinances, resolutions, contracts, deeds, leases, bonds, and other written instruments submitted to him/her by the Town Manager and/or Town Planner and shall promptly give his/her opinion as to their legality.
6. Conducts title searches and handles land closings for both Conservation and general Town real estate transactions.
7. Attends meetings of the Select Board, Planning Board, Zoning Board of Adjustment and any other board or commissions as may be required to offer legal opinions.
8. Maintain knowledge of issues facing the Town and be prepared to offer legal opinions.
9. Coordinates with other special counsel, as needed, to assure proper management of legal issues, and proper coordination and transition of legal issues among special counsel.
10. Assists Town officials and employees to maintain awareness of ethical standards and appearance of fairness standards, and to avoid potential

conflicts of interest, prohibited transactions and the appearance of prohibited transactions.

11. Performs other legal services and tasks, as assigned by the Town Manager if applicable.

SECTION V – MINIMUM QUALIFICATIONS

Each firm or attorney submitting proposals must address the following minimum qualifications:

1. Each attorney in the proposed team must possess a Juris Doctorate degree and have graduated from a law school accredited by the American Bar Association;
2. Each attorney in the proposed team must be a member in good standing of the New Hampshire State Bar Association;
3. The proposed designated lead Attorney(s) must have a minimum of five years experience between him/her/them in the field of municipal law with particular experience in planning and land use, tax assessment and collection, municipal finance, and general administration; attorneys should indicate which attorneys in the firm specialize in which areas;
4. An affirmative statement shall be included that the firm and all assigned key professional staff are properly registered or licensed to practice in New Hampshire.

SECTION VI – PROPOSAL REQUIREMENTS

The purpose of all submitted proposals is to demonstrate the qualifications, competence and capability of the firms seeking to provide legal services to the Town of Exeter in conformity with the requirements of this request for proposals. As such, the substance of proposals will carry more weight than their form or manner of presentation.

Items to be Addressed:

The proposal should address all the points outlined in the request for proposals (excluding any cost information which should only be included in the sealed bid form). The proposal should be prepared simply and economically, providing a straightforward, concise description of the individuals or firms capabilities to satisfy the requirements of the request for proposals. While additional data may be presented, the following subject and questions must be addressed. They represent the criteria against which the proposal will be evaluated.

1. Name, address, telephone number, fax number and e-mail address of attorney/firm.
2. Name of contact person and telephone number for purposes of following up on proposal.
3. State the size of the firm, the size of the firm's municipal legal staff, the location of the office from which the work on this engagement is to be performed and

the number and nature of the professional staff to be employed in this engagement.

4. Narrative about the history of the firm, including date of inception, experience with municipal, county, state, and federal law, and specific experience in the following areas of general municipal law: planning and land use, public sector employment law, tax collection, municipal finance, laws dealing with municipal roads, tax assessment abatement issues, and general civil litigation.
5. Narrative of the qualifications of the person(s) proposed to work directly with the Town as the lead attorney to include:
 - Legal training, years of practice, area of specialization; include date of admittance to NH Bar
 - Year of municipal and/or local public sector law practice as a full-time government attorney or in private law office specializing in local government proceedings
 - Knowledge of and experience with NH municipal law. Identify whether or not a member of the Municipal Law section of the NH Bar Association
 - Litigation experience and demonstration of a satisfactory court track record
 - Identify any professional affiliations
6. Identify the accessibility of the proposed designated lead Attorney, and the response time that the individual offers to the Town. Specifically identify the lead-time required for attending scheduled or ad-hoc meetings.
7. Narrative about the resources of the firm, to include clerical and support staff, library and research capabilities, and other relevant information.
8. Describe the level of coverage for malpractice insurance your firm carries. Is the coverage on a per client basis, or is the dollar figure applied to the firm as a whole? Provide documentation of the malpractice insurance coverage.
9. Within the last five years has your organization, officers, partners, employees, shareholders, or principals been a party in any litigation or other legal proceedings as a defendant relating to the services provided by your entity? If so, provide an explanation and indicate the current status or disposition.
10. State whether the firm, its officers, partners, principals, agents, or employees, that are expected to perform services under this RFP, have been disciplined, admonished, warned, or had any license, registration, charter, certification, or any similar authorization to engage in the legal profession suspended or revoked for any reason.
11. Has the firm been in bankruptcy, reorganization or receivership in last five years? If so please explain current status
12. Has the firm been disqualified or terminated by any public agency or Town? If so please explain under what circumstances this disqualification or termination occurred.

Current Practice – Conflict of Interest Issues:

- List all public sector clients for which the firm currently provides services or are under retainer.

- List all current or former clients residing in, having an interest in a business, or owning an interest in property in the Town of Exeter within the past three (3) years.
- Provide a statement that the firm/attorneys have no conflicting financial or professional interests with representing the Town of Exeter.
- If a conflict of interest were to arise during the contract term, provide a list of attorneys that your firm would recommend to be used as an alternate counsel.

References:

Provide a list of the clients including the name and contact telephone number and the number of years the client has retained your firm, and the services the client uses or used and under what conditions they were performed. By listing the reference, the bidders authorize officials of the Town to contact same as part of the overall evaluation of the proposal.

SECTION VII - PAYMENT TERMS

Payments will be made within thirty (30) calendar days of any invoices submitted on the basis of work completed during the course of this contract and in accordance with all compensation terms as may be negotiated between the successful individual or firm and the Town. A taxpayer identification form (W-9) will be required at the time of contract award.

SECTION VIII - INSURANCE

A. WORKER’S COMPENSATION INSURANCE - The individual/firm shall purchase and maintain such insurance as necessary to protect them from claims under worker’s compensation acts, and for any claims for damages for personal injury, including death, which may arise from operations under this contract.

B. PROFESSIONAL LIABILITY AND GENERAL LIABILITY INSURANCE - The firm shall purchase and maintain such professional liability and general liability insurance, including malpractice insurance, at a minimum of \$2,000,000 respectively.

C. CERTIFICATES – All bidders shall include preliminary certificates with the proposal submission, showing that the above insurance has been purchased. The adequacy of protection shall be subject to the approval of the Select Board.

SECTION IX – CERTIFICATION CLAUSES / RELEASE AUTHORIZATION:

NON COLLUSION CLAUSE:

“The undersigned certifies under penalties of perjury that this bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this section the word “person” means any natural person, joint venture, partnership, corporation or other business or legal entity. Further, I certify that the items to be supplied by my firm will meet or exceed the specifications as listed in this request for bid.”

Signature

Date

Name

Title

CERTIFICATION OF LEGAL FITNESS CLAUSE:

“I certify that to the best of my knowledge, _____(name of bidder) and none of its principals, partners, officers, and employees:

- (a) are not presently disbarred, suspended, proposed for disbarment or discipline, or declared ineligible for a contract, by a federal or state department or Town, including any established courts or administrative tribunals;
- (b) have not within a three year period preceding this proposal been convicted of, or had a civil judgment rendered against them for the commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) contract, violation of antitrust statutes or commission of embezzlement, theft, forgery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) are not presently indicted for other criminal or civil charge by a government entity (federal, state, or local) with the commission of any of these offenses enumerated in (b) of this certification; and
- (d) have not within a three year period preceding this proposal had one or more public contracts (federal, state, or local) terminated for cause.

This certification is a material representation of fact upon which the Town of Exeter has relied when this transaction was entered into. If it is later determined that the undersigned knowingly rendered an erroneous certification, in addition to other remedies available, the Town of Exeter may pursue available remedies including termination of the contract.

Signature

Date

Name

Title

AUTHORIZATION TO RELEASE INFORMATION

The undersigned hereby authorizes the Town of Exeter to obtain information regarding its performance on other contracts, agreements or other business arrangements, its business reputation, and any other matters pertinent to the evaluation and selection of a successful bidder in response to its Request for Legal Services Proposal.

The undersigned hereby releases, acquits, and forever discharges the Town of Exeter, its Administrators, employees, governing body members, and agents from any and all liability whatsoever, including all claims, demands and causes of action of every nature and kind affecting the undersigned that it may have or ever claim to have relating to information, data, opinions, and references obtained by the Town of Exeter in the evaluation and selection of a successful bidder in response to its Request for Legal Services Proposal.

The undersigned hereby authorizes representatives of the Town of Exeter to contact any and all of the persons, entities, and references that are, directly or indirectly, listed, submitted, or referenced in the undersigned proposal submitted in response to its Request for Legal Services Proposal.

The undersigned further authorizes any and all persons or entities to provide information, data, and opinions with regard to the undersigned's performance under any contract, agreement, or other business arrangement, the undersigned's ability to perform, the undersigned's business reputation, and any other matter pertinent to the evaluation of the undersigned. The undersigned hereby releases, acquits, and forever discharges any such person or entity, their officers, directors, employees and agents from any and all liability whatsoever, including all claims, demands and causes of action of every nature and kind affecting the undersigned that it may have or ever claim to have relating to information, data, opinions, and references obtained by the Town of Exeter in the evaluation and selection of a successful bidder in response to its Request for Legal Services Proposal. A photocopy or facsimile of this signed Authorization is as valid as an original.

Notwithstanding the foregoing, this authorization and release from liability does not extend to granting the Town of Exeter authority to receive any information that would constitute a violation of: any legal privilege attorney ethical obligation, attorney work product, or confidential attorney-client communication that can be claimed by the bidder or entity contacted.

Signature Date

Name Title

SECTION X – COST PROPOSALS / BID FORMS:

Each bidder shall submit a detailed cost proposal in a separate sealed envelope which responds to the following minimum requirements:

1. Provide a narrative about the proposed method for calculation of fees, including whether or not out of pocket expenses are included in the proposed rate. Include a description of basic services to be included and list services or other incidentals for which additional fees would be charged. Normal billing cycle procedures shall be identified.
2. State the hourly rates for the lead attorney and associates for all routine, basic services and the rate charged for litigation services within court, if at a different rate than charged for basic services.
3. The bidder shall utilize the attached bid form to include all pricing information relative to performing the legal services as described in this request for proposal. A separate bid form should be included for each of the three (3) years included in the proposal.
4. The Town will select the finalist by considering the proposed compensation as a “best and final offer,” although the Town reserves the right to negotiate terms as needed to improve elements of the proposal to best meet the needs of the Town, including cost.

COST PROPOSALS / BID FORMS:

(SUBMIT IN SEPARATE SEALED ENVELOPE MARKED "TOWN OF EXETER LEGAL SERVICES COST PROPOSAL" WITH FIRM NAME)

Name of Firm _____

Address _____

Email/Phone _____

RETAINER OPTION

Lump Sum for all Legal Services:

Year One _____

Year Two _____

Year Three _____

Exclusions (Describe fully, ie litigation if above the retainer, addressed as hourly rate):

HOURLY RATE OPTION

Year One: May 1, 2019 – May 1, 2020

		Standard Hourly Rates	Court Time Hourly Rates	
Flat Fee (all general work, ie, a retainer)				
Lead Attorney				
Associate Attorney				
Others _____				

Year Two: May 2, 2020 – May 1, 2021

		Standard Hourly Rates	Court Time Hourly Rates	
Flat Fee (all general work, ie, a retainer)				

Lead Attorney				
Associate Attorney				
Others _____				

Year Three: May 2, 2021 – May 1, 2022

		Standard Hourly Rates	Court Time Hourly Rates	
Flat Fee (all general work, ie, a retainer)				
Lead Attorney				
Associate Attorney				
Others _____				

Signature of Authorized Representative

Date