

Q&A
Request for Proposals #072
New York City Attorney for the Child Services, Juvenile Defense

1. The contract date is confusing. Present contracts have already been approved for the period 4/1/20-9/3020. If an RFP is submitted that includes new staffing in order to meet the RFP specifications, will the new contract begin on October 1?
 - A. *This Request for Proposals (RFP) is for the provision of Juvenile Defense services only and will not affect existing contracts for Attorney for the Child services in New York City that include provision of child welfare and custody representation services. If an existing Attorney for the Child contractor is awarded through this RFP, they will be required to enter into a separate contract for the juvenile defense services solicited in the RFP. Contracts that result from this RFP are expected to commence on or about April 1 and will be solely for the provision of Juvenile Defense representation as provided in the RFP.*
2. OCA estimates that only 5% of JD, AO and JO cases will be handled by 18b attorneys. Does this reflect the full rate of conflicts of interest or is this the number of cases assigned to Legal Aid at the initiation of a case, regardless of whether the case ultimately results in an identified conflict and reassignment?
 - A. *The estimate is based on the proportion of original court filings to be handled by 18b panel attorneys.*
3. Does OCA have an estimate of the PINS/JD cases that require after-hours appearances (excluding JO and AO cases)
 - A. *No, OCA does not have such an estimate.*
4. Given that the Center For Family Representation has a contract to handle Legal Aid conflicts and other JO and AO cases, is it correct to understand that a proposal can be submitted to handle the PINS/JD cases where Legal Aid discovers a conflict of interest (due to in-concert charges or internal LAS conflicts)? We assume that OCA is not automatically granting 18b attorneys the sole right to handle these cases, correct?
 - A. *The current allocation of caseload is not relevant to this RFP; representation of the entire non-panel juvenile defense caseload is being procured. Applicants must indicate the number of cases for which they seek a contract in each county.*
5. It is unclear to me whether this RFP permits us to bid for representation of Juvenile Delinquency cases (Category 2) without also bidding for PINS cases (Category 1). Can you please clarify whether this is possible? And if yes, is there an estimate for the total number of JD cases?
 - A. *UCS will only consider bids that include representation of both Juvenile Delinquency cases (Category 2) and PINS cases (Category 1).*
6. Are the “Projected Annual caseload” numbers identified on p. 2 of the RFP meant to refer to annual pending caseload or annual intake?

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- A. *The Annual Projected Caseload is an estimate of future original court filings.*
7. Shall the AFC interpret a case to mean any docketed matter brought before the court including pre-petition applications pursuant to FCA 307.4?
- A. *All matters assigned to an attorney for the child pursuant to Family Court Act Section 249 are considered cases.*
8. If the caseload numbers on p. 2 refer to total annual intake do those numbers refer to total cases filed/prosecuted or total arrests?
- A. *The Annual Projected Caseload is an estimate of future original court filings.*
9. For the purpose of determining caseload capacity, how does USC [UCS] define a case?
- A. *The Annual Projected Caseload is an estimate of future original court filings.*
10. Case definition questions
- a. Shall the AFC interpret a case to include any Juvenile Delinquency matter processed during the night, weekend or holidays Family Court session?
 - b. Shall the AFC interpret a case to include any matter originating in the Youth Part and subsequently removed to Family Court that is not assigned a Family Court docket number? For example, when an AO matter is removed to Family Court (without protective order) and the youth is scheduled to meet with the probation department, is that matter considered a case, within USC's [UCS'] definition of a case.
 - c. If an AO case is removed from the Youth Part, and referred by the Probation Department then referred to Corporation Counsel, but no petition is immediately filed in court, is that matter considered a case?
- A. *The Annual Projected Caseload estimates presented on page 2 include the matters listed in a, b and c, above.*
11. Does the total number of PINS/JD cases refer only to cases actually filed or does it also include young people who are in the probation adjustment phase or who have been referred to corporation counsel and corporation counsel declines to prosecute them? (This could be both young people who had prior cases, or have new cases)
- A. *The PINS/JD Projected Annual Caseload is an estimate of future original court filings.*
12. Do the caseload numbers on p.2 "caseload" refer to matters or clients? i.e. if a young person we represent has two pending cases, is that 2 cases or 1 case with respect to the pending caseload numbers referred to on p. 2?
- A. *Annual Projected Caseload is an estimate of future original court filings.*

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13. Does the total number of AO/JO cases include only cases that are removed from the youth part and then filed in family court? Or, does it also include cases that are removed from the Youth part but a young person is in the adjustment phase (no delinquency filed) or for whom corporations counsel declines to prosecute?
- A. The estimates include all cases removed from the Youth Part to Family Court including those that first go to Probation.*
14. Does the total number of AO/JO cases include cases that remain in the youth part and are not removed?
- A. No. Estimates include only cases removed to Family Court.*
15. Data questions:
- a. Does OCA have data on average case length (from filing to disposition) for the categories of cases identified on p. 2 by county and case type?
 - b. Does OCA have data it can share on percentage of violations filed, by county?
 - c. Does OCA have data it can share on percentage of AO's removed to family court, by county?
 - d. Does OCA have data on the number of cases where there are multiple AO's/Respondents by county; and/or an average conflict rate on cases in both PINS/Delinquency and JO/AO categories?
 - e. Does OCA have any data, by borough, on rate of removal AO's who are adjusted, rate of young people summoned on potential delinquency cases that are adjusted?
- A. That data is not published by OCA, however the New York State Division of Criminal Justice Services publishes data on these topics at:*
<https://www.criminaljustice.ny.gov/crimnet/ojsa/stats.htm>
16. Do the categories of cases identified on p. 2 include violations of disposition proceedings? Or is a violation considered a separate case and so included in the projected annual caseload numbers? Or, is a violation considered a continuation of a pending case so not a new case?
- A. A violation is considered a continuation of a case.*
17. Do the categories of cases identified on p. 2 include extensions of placement proceedings? Or is an extension considered a separate case and so included in the projected annual caseload numbers? Or, is an extension considered a continuation of a pending case so not a new case?
- A. An extension is considered a continuation of a case.*
18. With respect to the "Juvenile /Adolescent Offender" category: several NYC institutional providers already receive money from the City to cover at least some of this work, as part of their adult criminal defense contracts. This is particularly true with respect to being

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present at the earliest possible point, arraignment, where the DA does not consent initially to a removal. To be effective, defense counsel needs to take advantage of the days between arraignment and any removal by doing an investigation, possibly referring the young person or his/her family to services, motion practice (if the DA seeks to have a non-violent felony remain in the Youth part) and otherwise preparing for the day when the court will decide whether the case will be removed. Most of the institutional providers then continue to represent youth following the removal order (through adjustment) and presumably have city funding to do so, but even if not, they certainly have it to cover arraignments and the period up to removal, including funds that cover any investigation or referrals by social workers to services a youth might need. During adjustment, it is important to continue to do an investigation (so that witnesses' recollections are not stale and so that video and other documentary evidence is available), and it is important to ensure a youth is in services, because this could influence whether a young person succeeds during the adjustment phase. Because current institutional providers in Queens, NY, Bronx and Kings counties have (and presumably will continue to receive) city money to help fund some of this work, it would seem they are better positioned to submit a budget for those cases (or a cost per case) that is lower than any provider that currently does not enjoy that city funding. Will OCA scoring on the budget section of the RFP reflect this?

A. The cost of legal representation for cases removed to the family court is the responsibility of the state and is the subject of this Request for Proposals. Scoring for the cost component of the RFP is solely based on the formula articulated in Section VII and does not contemplate other factors.

19. Page 15 refers to References submitted--can references be submitted as appendices to the proposal documents (as there are page limits for the narrative sections)?

A. References are not a required submission with this RFP and the application must be limited to the required components and must adhere to established page limits.

20. Can we submit very brief bios of key staff as appendices to the proposal?

A. Applicants may choose to include such descriptions in its responses for Section VIII(B), provided they adhere to proscribed page limits.

21. Can we submit very brief descriptions of recent accomplishments as appendices to the proposal?

A. Applicants may choose to include such descriptions in its responses for Section VIII(A) provided they adhere to proscribed page limits.

22. What is meant by the phrase "properly reassign conflicts" on page 7 of the RFP? Does that refer to an applicant's procedures for ensuring a youth has representation by another

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qualified person or entity as soon as is practicable after we identify that we cannot continue representation because of a conflict?

A. *Yes.*

23. Has USC [UCS] adopted caseload guidelines/case load cap? If so, what is the expected caseload for one Juvenile Defense attorney? Is a caseload based on a total number of cases at one time, or pending over a year.

A. *Caseload guidelines for Attorneys for Children are established by court rule: <http://ww2.nycourts.gov/rules/chiefadmin/127.shtml>*

24. Shall the AFC interpret representation and or legal assistance for ancillary proceedings an additional case to be included in the case load capacity? For example, are petitions for sealing and expungement of arrest history, fingerprints, DNA, School Suspension proceedings, and or school advocacy meeting considered a case.

A. *Applicants may propose providing such ancillary services in their applications. Such representation would not be considered a new case but rather continuous representation of an existing client.*

25. Does USC [UCS] include supplemental cases (for example, violation of probation, extensions of placement petition in the total caseload capacity?

A. *Applicants may propose providing such ancillary services in their applications. Such representation would not be considered a new case but rather continuous representation of an existing client.*

26. If youth is detained prior to JD filing in court in a precinct, and seeking legal representation prior to interrogation, line up or questioning by police or prosecutor, does USC [UCS] consider that matter a case?

A. *All matters assigned to an attorney for the child pursuant to Family Court Act Section 249 are considered cases. It is important to note that applicant responses on the Cost Proposal and Caseload Capacity Chart for Applicant Estimated Capacity and Cost per Case will be used for the purpose of determining awards, but that awardees will not be reimbursed on a case basis, but rather for actual expenditures incurred against a line item budget. Applicants should propose to provide appropriate representation within the bounds of requested funding.*

27. Cost per case questions

- a. In accordance with National Juvenile Defense Standards, and in submitting a cost per case, how should an organization isolate Appellate cost?
- b. In accordance with National Juvenile Defense Standards, and in submitting a cost per
- c. case, how should an organization isolate Law Reform cost?

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- d. In accordance with National Juvenile Defense Standards, and in submitting a cost per case, how should an organization isolate cost associated with out of court advocacy and supportive services, such as Education advocacy?
 - e. In accordance with National Juvenile Defender standards, and in submitting a cost per case, how should an organization isolate training cost?
 - f. In submitting a cost per case, how should an organization isolate cost for social work support?
 - g. In submitting a cost per case, how should an organization isolate cost for investigators?
 - A. *The cost per case should be inclusive of the expenses associated with the program plan described in Articles VIII(a) and VIII(b) and costs for individual components of that program plan are not to be isolated from the total cost.*
28. In accordance with National Juvenile Defense Standards, does USC [UCS] interpret caseload capacity to include post disposition representation, including revocation hearings, reentry advocacy including school placement and associated support services? Is so, how should an organization isolate the cost of representation on post disposition matters.
- A. *The cost per case should be inclusive of the expenses associated with the program plan described in Articles VIII(a) and VIII(b) and costs for individual components of that program plan are not to be isolated from the total cost.*
29. Staffing ratio questions
- a. USC [UCS] recognizes that quality representation and enhanced services in Juvenile Defense include the support of social workers, what ratio of social workers per attorney does the USC [UCS] recommend?
 - b. USC [UCS] recognize that quality representation and enhanced services in Juvenile Defense include the necessity of investigators, what ratio of investigators per attorney does the USC [UCS] recommend?
 - A. *Applicants must include staffing ratios as an element of the program plan required in Articles VIII(a) and VIII(b).*
30. Application questions
- a. On page 6, Award: If the AFC organization intends to apply for contracts in multiple boroughs, should the organization submit ONE application for our entire organization's application, or do we submit one application for each borough?
 - b. Similarly, if the AFC organization submit applications for both the PINS and JD contracts in a particular borough, do we submit one or two applications for that borough?
 - A. *An applicant may submit a single application for all case types and counties for which it proposes to provide services and indicate such application by entering the county or*

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counties and caseload numbers in the "Caseload Capacity" field on the Proposal Cover Sheet.

31. If the answer to 30) above is that AFC organizations can submit ONE application for multiple boroughs and/or multiple contracts per borough, are the Project Description and other Narrative Section page limits expanded? If so, by how much?
- A. The page limits apply regardless of the number of counties and contracts for which applications are submitted.*
32. If applications include more than one county and/or more than one case type per county, does the five-page limit for the Project Description narrative still apply, or is the applicant given additional pages to address the multiple county program(s).
- A. Yes, the page limits still apply.*
33. On page 10, Project Description, number 8: Regarding continuity of representation, how does USC [UCS] define continuity? What does USC [UCS] mean by a plan for continuity?
- A. Ideally, the same attorney or firm would represent the defendant in the Youth Part and in any proceedings subsequent to removal to the Family Court. In instances where the same attorney or firm cannot represent the defendant in both venues, the applicant should articulate efforts that will be made to promote a smooth transfer of representation.*
34. As the RFP asks for cost per case, will the contract be funded on a cost reimbursement basis as it is currently funded or on a performance basis?
- A. The resulting contracts will be paid on a cost reimbursement basis. The use of cost per case in the RFP is both to evaluate the value of the services in award determination and to establish the amount of funding to be awarded for the caseloads awarded to each successful applicant. In other words, the cost per case bid will be used to determine the award amount for each successful applicant.*
35. Will AFC contractors receive 25% quarterly advance as is the current practice?
- A. Yes, awarded contractors will be eligible for advance payments if UCS determines, in its discretion, that they qualify for advance payments pursuant to UCS procedures.*
36. Would USC [UCS] consider contracting with an institution as the conflict provider in any and all of the boroughs?
- A. The number of cases each organization proposes to serve of the Projected Annual Caseload by Case Type and County is at the applicant's discretion. An applicant may propose to serve a proportion of the Projected Annual Caseload.*

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37. USC [UCS] anticipates 5% of AFC Juvenile Defense work to be allocated to the 18b panel attorney. Can USC [UCS] disclose the average cost per case for 18b vouchers for 2018 and 2019 for all Juvenile Delinquency, PINS, JO and AO cases billed/vouchered. Please include cost per case for experts, social work consultants, investigator services and training.
- A. OCA does not publish this information.*