

STATE OF SOUTH DAKOTA
OFFICE OF PROCUREMENT MANAGEMENT
523 EAST CAPITOL AVENUE
PIERRE, SOUTH DAKOTA 57501-3182

Attorney Services for DSS – Division of Child Support
PROPOSALS ARE DUE NO LATER THAN March 30th, 2012

RFP #: 26040

BUYER: State of SD/DSS/Division of Child Support EMAIL: DSS.RFP@state.sd.us

READ CAREFULLY

FIRM NAME: _____ AUTHORIZED SIGNATURE: _____

ADDRESS: _____ TYPE OR PRINT NAME: _____

CITY/STATE: _____ TELEPHONE NO: _____

ZIP (9 DIGIT): _____ FAX NO: _____

FEDERAL TAX ID#: _____ E-MAIL: _____

PRIMARY CONTACT INFORMATION

CONTACT NAME: _____ TELEPHONE NO: _____

FAX NO: _____ E-MAIL: _____

1.0 GENERAL INFORMATION

1.1 PURPOSE OF REQUEST FOR PROPOSAL (RFP)

The Division of Child Support (DCS) is looking for an Attorney or Firm to provide legal services for three different areas within the State of South Dakota. Area A consists of Minnehaha and Lincoln counties. Area B consists of Pennington County. Area C consists of Butte, Meade, and Lawrence counties. These areas may be bid individually or in any combination.

1.2 ISSUING OFFICE AND RFP REFERENCE NUMBER

The Department of Social Services, Division of Child Support is the issuing office for this document and all subsequent addenda relating to it, on behalf of the State of South Dakota, Department of Social Services, Division of Child Support. The reference number for the transaction is RFP #26040. This number must be referred to on all proposals, correspondence, and documentation relating to the RFP.

1.3 LETTER OF INTENT

All interested respondents must submit a **Letter of Intent** to respond to this RFP.

The letter of intent must be received in the Division of Child Support by no later than February 15, 2012. If submitted by mail the envelope should be addressed to:

**REQUEST FOR PROPOSAL #26040
BUYER: SHANNON ABERNATHY
DIVISION OF CHILD SUPPORT
700 GOVERNORS DR
PIERRE SD 57501**

Be sure to reference the RFP number in your letter.

The Letter of Intent may be submitted to Peggy Schmidt via email at DSS.RFP@state.sd.us. Please place the following in the subject line of your email: **“Letter of Intent for RFP Attorney Services for DSS – Division of Child Support”**.

You may also fax your letter of intent to the attention of Shannon Abernathy at 605-773-7295.

1.4 SCHEDULE OF ACTIVITIES (SUBJECT TO CHANGE)

RFP Publication	February 1, 2012
Letter of Interest	February 15, 2012
Deadline for Submission of Written Inquiries	February 15, 2012
Responses to Respondents Questions	February 29, 2012
Proposal Submission	March 30, 2012
Oral Presentations/discussions (if required)	
Proposal Revisions (if required)	
Anticipated Award Decision/Contract Negotiation	May 1, 2012

All activities are due by 5:00 pm CST on date listed.

1.5 SUBMITTING YOUR PROPOSAL

All proposals must be completed and received in the Division of Child Support by the date and time indicated in the Schedule of Activities.

Proposals received after the deadline will be late and ineligible for consideration.

An original and 6 (six) identical hard copies of the proposal and 1 (one) electronic copy on a CD shall be submitted as noted in section 5.1.1.

The cost proposal must be in a separate sealed envelope and labeled “Cost Proposal”.

All proposals must be signed, in ink, by an officer of the Respondent, legally authorized to bind the Respondent to the proposal, and sealed in the form intended by the Respondent. Proposals that are not properly signed may be rejected. The sealed envelope must be marked with the appropriate RFP Number and Title. The words “Sealed Proposal Enclosed” must be prominently denoted on the outside of the shipping container. **Proposals must be addressed and labeled as follows:**

**REQUEST FOR PROPOSAL #26040
PROPOSAL DUE MARCH 30TH 2012
BUYER SHANNON ABERNATHY
DIVISION OF CHILD SUPPORT
700 GOVERNORS DR
PIERRE SD 57501**

All capital letters and no punctuation are used in the address. The Division of Child Support address as displayed should be the only information in the address field.

No proposal shall be accepted from, or no contract or purchase order shall be awarded to any person, firm or corporation that is in arrears upon any obligations to the State of South Dakota, or that otherwise may be deemed irresponsible or unreliable by the State of South Dakota.

1.6 NON-DISCRIMINATION STATEMENT

The State of South Dakota requires that all contractors, vendors, and suppliers doing business with any State agency, department, or institution, provide a statement of non-discrimination. By signing and submitting their proposal, the respondent certifies they do not discriminate in their employment practices with regard to race, color, creed, religion, age, sex, ancestry, national origin or disability.

1.7 MODIFICATION OR WITHDRAWAL OF PROPOSALS

Proposals may be modified or withdrawn by the respondent prior to the established due date and time.

No oral, telephonic, telegraphic or facsimile responses or modifications to informal, formal bids, or Request for Proposals will be considered.

1.8 RESPONDENT INQUIRIES

Respondent may make email inquiries concerning this RFP to obtain clarification of requirements. No inquiries will be accepted after the date and time indicated in the Schedule of Activities. Email inquiries must be sent to Peggy Schmidt at DSS.RFP@state.sd.us with the subject line “RFP #26040”. Inquires may also be faxed to Shannon Abernathy at 605-773-7295.

The Division of Child Support will respond to Respondent’s inquiries via the State of South Dakota Office of Procurement Website, URL: http://www.state.sd.us/boa/opm/vendor_info.htm, and email sent from the Point of Contact of this RFP. Respondent may not rely on any other statements, either of a written or oral nature, that alter any specification or other term or condition of this RFP. Respondent will be notified in the same manner as indicated above regarding any modifications to this RFP.

1.9 PROPRIETARY INFORMATION

The proposal of the successful respondent(s) becomes public information. Proprietary information can be protected under limited circumstances such as client lists and non-public financial statements. Pricing and service elements are not considered proprietary. An entire proposal may not be marked as proprietary. Respondent must clearly identify in the Executive Summary and mark in the body of the proposal any specific proprietary information they are requesting to be protected. The Executive Summary must contain specific justification explaining why the information is to be protected. Proposals may be reviewed and evaluated by any person at the discretion of the State. All materials submitted become the property of the State of South Dakota and may be returned only at the State's option.

1.10 LENGTH OF CONTRACT

The contract will be for a length of one year with the option to renew for four additional 1 year periods totaling a five year contract. The contract will run from June 1st through May 31st of each year.

1.11 GOVERNING LAW

Venue for any and all legal action regarding or arising out of the transaction covered herein shall be solely in the State of South Dakota. The laws of South Dakota shall govern this transaction.

1.12 DISCUSSIONS WITH RESPONDENT (ORAL PRESENTATION/NEGOTIATIONS)

An oral presentation by a respondent to clarify a proposal may be required at the sole discretion of the State. However, the State may award a contract based on the initial proposals received without discussion with the Respondent. If oral presentations are required, they will be scheduled after the submission of proposals. Oral presentations will be made at the respondent's expense.

This process is a Request for Proposal/Competitive Negotiation process. Each Proposal shall be evaluated, and each respondent shall be available for negotiation meetings at the State's request. The State reserves the right to negotiate on any and/or all components of every proposal submitted. From the time the proposals are submitted until the formal award of a contract, each proposal is considered a working document and as such, will be kept confidential. The negotiation discussions will also be held as confidential until such time as the award is completed.

2.0 STANDARD CONTRACT TERMS AND CONDITIONS

Any contract or agreement resulting from this RFP will include the State's standard terms and conditions as listed below, along with any additional terms and conditions as negotiated by the parties:

- 2.1** The Contractor will perform those services described in the Scope of Work, attached hereto as Section 3 of the RFP and by this reference incorporated herein.
- 2.2** The Contractor's services under this Agreement shall commence on June 1st and end on May 31st, unless sooner terminated pursuant to the terms hereof.
- 2.3** The Contractor will not use State equipment, supplies or facilities. The Contractor will provide the State with its Employer Identification Number, Federal Tax Identification Number or Social Security Number upon execution of this Agreement.
- 2.4** The State will make payment upon satisfactory completion of the services. The Contractor shall be paid a total sum, divided into equal monthly payments plus allowable expenses. Allowable expenses include:

- 2.4.1 Telephone toll calls and FAX expenses;
- 2.4.2 Photocopying of cases and related documents at the rate of ten cents per page;
- 2.4.3 Expenses of short term training activities which are sponsored or approved by DCS, such reimbursement to be limited to amounts determined by prevailing rates established by the State for lodging, meal, and travel expenses;
- 2.4.4 DCS shall also pay litigation expenses so long as Attorney submits proof of payments, or receipts, with each request for payment or reimbursement; and
- 2.4.5 Mileage will be reimbursed at the rates established by the State Board of Finance for cases prosecuted on behalf of DCS which cases arise and are venued outside the primary counties for which services are provided under this contract.

Billing statements must include the total number of hours worked. Payment will be made consistent with SDCL Chapter 5-26 (Prompt Payment Act).

- 2.5 The Contractor agrees to indemnify and hold the State of South Dakota, its officers, agents, and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings that may arise as the result of performing services hereunder. This section does not require the Contractor to be responsible for or defend against claims or damages arising from errors or omissions of the State, its officers, agents or employees or from the errors or omissions of third parties that are not officers, employees or agents of the Contractor, unless such errors or omissions resulted from the acts or omissions of the Contractor. Nothing is intended to impair the insurance coverage of Contractor or any subrogation rights of Contractor's insurers.
- 2.6 The Contractor, at all times during the term of this Agreement, shall obtain and maintain in force insurance coverage of the types and with the limits as follows:
 - A. Commercial General Liability Insurance:

The Contractor shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than \$1,000,000.00 for each occurrence. If such insurance contains a general aggregate limit it shall apply separately to this Agreement or be no less than two times the occurrence limit.
 - B. Professional Liability Insurance or Miscellaneous Professional Liability Insurance:

The Contractor agrees to procure and maintain professional liability insurance or miscellaneous professional liability insurance with a limit not less than \$1,000,000.00.
 - C. Business Automobile Liability Insurance:

The Contractor shall maintain business automobile liability insurance or equivalent form with a limit of not less than \$500,000.00 for each accident. Such insurance shall include coverage for owned, hired and non-owned vehicles.
 - D. Worker's Compensation Insurance:

The Contractor shall procure and maintain workers' compensation and employers' liability insurance as required by South Dakota law.

Before beginning work under this Agreement, Contractor shall furnish the State with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this

Agreement. In the event a substantial change in insurance, issuance of a new policy, cancellation or non-renewal of the policy, the Contractor agrees to provide immediate notice to the State and provide a new certificate of insurance showing continuous coverage in the amounts required. Contractor shall furnish copies of insurance policies if requested by the State.

- 2.7** While performing services hereunder, the Contractor is an independent contractor and not an officer, agent, or employee of the State of South Dakota.
- 2.8** Contractor agrees to report to the State any event encountered in the course of performance of this Agreement which results in injury to the person or property of third parties, or which may otherwise subject Contractor or the State to liability. Contractor shall report any such event to the State immediately upon discovery.

Contractor's obligation under this section shall only be to report the occurrence of any event to the State and to make any other report provided for by their duties or applicable law. Contractor's obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client communications). Reporting to the State under this section shall not excuse or satisfy any obligation of Contractor to report any event to law enforcement or other entities under the requirements of any applicable law.

- 2.9** This Agreement may be terminated by either party hereto upon thirty (30) days written notice. In the event the Contractor breaches any of the terms or conditions hereof, this Agreement may be terminated by the State at any time with or without notice. If termination for such a default is effected by the State, any payments due to Contractor at the time of termination may be adjusted to cover any additional costs to the State because of Contractor's default. Upon termination the State may take over the work and may award another party an agreement to complete the work under this Agreement. If after the State terminates for a default by Contractor it is determined that Contractor was not at fault, then the Contractor shall be paid for eligible services rendered and expenses incurred up to the date of termination.
- 2.10** This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.
- 2.11** This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.
- 2.12** This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.
- 2.13** The Contractor will comply with all federal, state and local laws, regulations, ordinances, guidelines, permits and requirements applicable to providing services pursuant to this Agreement, and will be solely responsible for obtaining current information on such requirements.
- 2.14** The Contractor may not use subcontractors to perform the services described herein without the express prior written consent of the State. The Contractor will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Agreement, to indemnify the State, and to provide insurance coverage for the benefit of the State in a manner consistent with this Agreement. The Contractor will cause its subcontractors, agents, and employees to comply, with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance.

Conflict of Interest

Attorney agrees not to participate as Counsel, in person or his/her law firm, in opposition to the interest of the State of South Dakota or any of its departments, bureaus, boards or commissions consistent with the policy attached hereto and labeled Exhibit A.

Limitations on Legal Representation

It is agreed and acknowledged by the Attorney in order to represent the State of South Dakota or the interest of DSS in any court of law, they must receive an appointment as an Assistant Attorney General from the Attorney General of the State.

- 2.15** Contractor hereby acknowledges and agrees that all reports, plans, specifications, technical data, miscellaneous drawings, software system programs and documentation, procedures, or files, operating instructions and procedures, source code(s) and documentation, including those necessary to upgrade and maintain the software program, and all information contained therein provided to the State by the Contractor in connection with its performance of services under this Agreement shall belong to and is the property of the State and will not be used in any way by the Contractor without the written consent of the State. Papers, reports, forms, software programs, source code(s) and other material which are a part of the work under this Agreement will not be copyrighted without written approval of the State.
- 2.16** The Contractor certifies that neither Contractor nor its principals are presently debarred, suspended, proposed for debarment or suspension, or declared ineligible from participating in transactions by the federal government or any state or local government department or agency. Contractor further agrees that it will immediately notify the State if during the term of this Agreement Contractor or its principals become subject to debarment, suspension or ineligibility from participating in transactions by the federal government, or by any state or local government department or agency.
- 2.17** Any notice or other communication required under this Agreement shall be in writing and sent to the individual and address set forth above, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.
- 2.18** In the event that any court of competent jurisdiction shall hold any provision of this Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision hereof.
- 2.19** All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

3.0 SCOPE OF WORK

- 3.1** In 1975, Congress enacted Part D of the Social Security Act requiring every State to operate a single and separate child support enforcement program that meets federally mandated requirements as a condition to receive federal funding for Temporary Assistance for Needy Families (TANF) programs. The provisions of Title IV-D of the Social Security Act and accompanying regulations at 45 CFR 301-308 inclusive, establish the requirements states must implement.
- 3.2** Initially in 1975 and following, the primary goal of the federal/state child support programs was to recover government expenditures made to TANF recipients. So when families receive TANF benefits, they assign their right to child support to the state, and the state retains child support payments collected to offset the TANF benefits they received. Under federal laws enacted in 1984, 1989, and 1993 the program was expanded extensively to require states to implement many new uniform types of paternity establishment, order establishment, and enforcement services; and to provide equal services to both TANF and Non-TANF families. The Non-TANF caseload has increased and the primary goal of the child support program shifted from a cost recovery/savings program, to one that assisted families to become self-sufficient without relying

on public assistance benefits. Congress enacted the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) in 1996, commonly referred to as the Welfare Reform Act of 1996. This Act required the most massive changes in new uniform requirements to be used by every state child support program in the country and significantly transformed the primary focus of the child support program to helping families not to rely on public assistance. The Deficit Reduction Act of 2005 enacted in 2006 further improved existing enforcement options, added new ones, allowed states more flexibility in distributing collections, but significantly reduced federal funding by eliminating the federal match on incentive payments. The American Recovery and Reinvestment Act of 2009 (ARRA) temporarily restored the use of incentives for federal match in FFY-2009 and 2010, but this provision expired October 1, 2010.

- 3.3** The primary goals of the Division of Child Support (DCS) program are to locate noncustodial parents, establish paternity, establish and modify child support obligations, enforce child and medical support obligations, and collect and distribute child support payments. Services are required to be provided on TANF, Medical Only, and Title IV-E Foster Care cases, and to any other family upon application for services which are referred to as Non-TANF cases.

Each areas history of referrals is as follows:

Area A (Minnehaha/Lincoln)	# of Referrals		
	<u>SFY2010</u>	<u>SFY2011</u>	<u>SFY2012 (through Nov-11)</u>
Paternity Establishment	100	111	46
Order Establishment	18	10	12
Enforcement	919	994	164
Other	<u>71</u>	<u>71</u>	<u>22</u>
Total	1,108	1,186	244

Area B (Pennington)	# of Referrals		
	<u>SFY2010</u>	<u>SFY2011</u>	<u>SFY2012 (through Nov-11)</u>
Paternity Established			
Order Establishment	1	1	
Enforcement	1,437	1,550	591
Other	<u>8</u>	<u>4</u>	
Total	1,446	1,555	591

Area C (Butte/Meade/Lawrence)	# of Referrals		
	SFY2010	SFY2011	SFY2012 (through Nov-11)
Paternity Establishment	13	27	14
Order Establishment	4	2	1
Enforcement	492	557	192
Other	<u>2</u>	<u>1</u>	<u>2</u>
Total	511	587	209

3.4 Responses:

3.4.1 The Respondent will provide a description of how they intend to perform the work in sections 3.5 through 3.9 and 3.11. The information should include name and title of staff assigned and a description of duties they will perform.

3.5 The Respondent must have graduated from an accredited school of law. Provide name of law school.

3.6 The Respondent must be certified to practice in the State of South Dakota. Provide date of certification.

3.7 The Respondent will be familiar with family law. Provide a summary of experience in family law.

3.8 The Respondent will be comfortable in court room proceedings and will be able to complete the requested actions in an expedited manner.

3.9 Respondent Duties and Responsibilities:

3.9.1 Respondent, upon written request by DCS, shall initiate, prosecute, and resolve, on behalf of DCS and the State, all actions or proceedings, whether civil or criminal in nature, in which the state is interested, or is a party, and as specifically requested by DCS for cases venued in the following counties: Area A consisting of Minnehaha and Lincoln counties, Area B consisting of Pennington County, and Area C consisting of Butte, Meade, and Lawrence counties.

3.9.2 Respondent shall provide services for the benefit of DCS, for which he/she will be entitled to receive compensation as specified in the contract, which services are generally described as follows:

3.9.2.1 Respondent shall keep and maintain a separate individual case record for each matter referred by DCS, which case record shall include records, documents, narratives of contacts, and related matters, and as required by DCS;

3.9.2.2 Respondent agrees to maintain, report, and safeguard any and all records, data, or information which are required to be maintained by the terms of the contract, or by any Federal, State, or DCS requirement;

3.9.2.3 Respondent shall seek to reduce all voluntary and statutory support obligations to a judicially determinable sum in all cases in all cases referred by DCS;

3.9.2.4 Respondent shall monitor the cooperation of the applicant or recipient, and provide timely notice of non-cooperation to DCS;

- 3.9.2.5** Respondent shall establish and enforce support obligations, including arrearages, through use of both civil and criminal procedures and remedies;
- 3.9.2.6** Respondent shall establish paternity, including identification of the father by investigation, genetic testing as necessary;
- 3.9.2.7** Respondent shall investigate and prosecute fraud directly related to child support, paternity, and related matters;
- 3.9.2.8** Respondent shall file Uniform Interstate Family Support Act (UIFSA) actions as requested by DCS for forwarding to a responding state;
- 3.9.2.9** Respondent shall utilize UIFSA, and other reciprocal arrangements with other states, when authorized by DCS, and assist other states in locating noncustodial parents, establishing paternity, or securing support for a child or spouse in another state;
- 3.9.2.10** Respondent shall provide legal representation to the DCS, for cases referred by the DCS. Legal representation of the DCS shall not create an attorney/client relationship between the Attorney or Firm and the applicant or recipient;
- 3.9.2.11** Respondent will establish and enforce requirements for medical health insurance coverage in appropriate cases, including cases involving the determination of paternity, and as requested by DCS;
- 3.9.2.12** Respondent shall perform such other functions as may be consistent in meeting the duties and responsibilities contained within this Scope of Work, or as requested by DCS; and
- 3.9.2.13** Respondent agrees to adhere to, implement, and follow all DCS policies, procedures, and directives of either DCS State Office or the Child Support Specialist Supervisor, whether written or verbal;
- 3.9.3** In addition to the general services described above, respondent shall also have the following specific responsibilities:
 - 3.9.3.1** Within thirty days of referral, respondent shall report to DCS regarding the status of all cases referred, and upon final disposition of action taken, furnish DCS with copies of court orders, judgments, or other pertinent and necessary documents. Within five (5) days of successful service of process, respondent shall also advise DCS in writing on a form provided by DCS of the date(s) of successful service of process. Respondent shall also document in writing within the referred file all date(s) of attempted service of process and the reason(s) for any unsuccessful attempt(s). Respondent shall also notify DCS of an exercise of prosecutorial discretion not to initiate any legal proceeding requested by DCS, with a brief statement of his/her reasons therefore;
 - 3.9.3.2** Upon completion of all essential and necessary services, respondent shall submit an itemized statement of work performed on each case and a claim for allowed expenses. Respondent will utilize specific forms furnished by DCS in submitting claims, which forms will be completed in accordance with the instructions thereon. A separate claim for will be submitted for individual case referred, and no claims will be submitted until all necessary work is completed by respondent thereon, or as directed by the DCS State Office;
 - 3.9.3.3** Respondent shall maintain and permit access to all records, case files, and other records as requested by DCS, until completion of all audits initiated by DCS or federal auditors, or for a period of three years, whichever occurs later;

- 3.9.3.4** Respondent shall obtain written approval of DCS of any agreement or compromise settlement concerning the support of a child in paternity cases, pursuant to SDCL 25-8-8, prior to submitting the agreement to the court for approval;
- 3.9.3.5** Respondent shall obtain written approval of DCS in negotiating compromise settlements, or stipulations, which reduce the amount of arrearages due on court-ordered or statutory support obligations, either in obtaining a judgment, or in satisfaction thereof;
- 3.9.3.6** Respondent shall immediately advise DCS of any conflict of interest which may arise by reason of his/her private practice of law, or otherwise, with respect to specific individuals or cases being pursued on behalf of DCS;
- 3.9.3.7** Respondent shall refund to DCS any amounts paid to him/her which are disallowed by audit procedures;
- 3.9.3.8** Respondent shall obtain written approval of DCS prior to using any confidential or private data in any legal action, and as defined herein;
- 3.9.3.9** Respondent shall comply with all pertinent policy memoranda, directives, and procedures which DCS may furnish from time to time;
- 3.9.3.10** Respondent shall meet any and all performance standards as contained in federal regulations or State law, and meet any and all performance standards which may be promulgated by DCS from time to time; and
- 3.9.3.11** Respondent shall immediately contact and advise DCS State Office of any conflict of interest or appearance of impropriety situations encountered as a result of prosecuting or handling any DCS referred case(s).
- 3.9.3.12** Respondent shall outline their plan for providing customer service for custodial and noncustodial parents that are involved with a legal action referred to his/her office.

3.10 DCS Duties and Responsibilities:

- 3.10.1** The Department of Social Services Division of Child Support (DCS) shall refer civil and criminal cases involving the establishment and enforcement of child support obligations, establishment of paternity, and other related matters to respondent, requesting the initiation of appropriate procedures to insure the protection of the state's interest, and the interests of the children and custodial parent, said request to be submitted in writing on Form DSS-SE-440;
- 3.10.2** DCS shall provide respondent all information necessary to commence, prosecute, and conclude this matter, and shall insist in the investigation and preparation of all cases referred to respondent for action;
- 3.10.3** DCS shall provide to respondent all pertinent information, including records and documents, needed to locate noncustodial parents; to establish paternity; to establish and enforce support obligations; and related matters;
- 3.10.4** DCS shall pay the entire cost of prosecution, including the compensation of respondent as contracted;
- 3.10.5** DCS shall pay the costs of genetic testing; polygraph testing; depositions; witness fees; service of process fees; and related litigation costs at rates or fees approved by DCS. These payments will be made by state warrant upon direct state voucher submitted by the proper vendor, without cost to respondent;

- 3.10.6 DCS shall insure that all pertinent Federal and State laws or regulations will be readily available to the parties herein; and
- 3.10.7 DCS expressly reserves the right to recall a referred case from the respondent at any time. The respondent will be paid at the rate specified in the contract.

3.11 Mutual Duties and Responsibilities:

- 3.11.1 Both the DCS and respondent shall comply with Title IV-D of the Social Security Act; any implementing regulations; and, any other applicable State and Federal regulations, or requirements.
- 3.11.2 Title IV-A of the Social Security Act as enacted and amended by Public Law 93-647; and other relevant and subsequent Acts of Congress, including Public Law 98-378; pertinent portions of the Code of Federal Regulations; and State laws and administrative rules will be incorporated in the contract by reference and made a part hereof as if fully set forth herein. These enactments, and any amendments or changes to such statutes, regulations, or rules shall be transmitted to respondent by DCS, and at such time shall be incorporated without formal amendment to the contract.

4.0 PROPOSAL REQUIREMENTS AND COMPANY QUALIFICATIONS

4.1 The respondent is cautioned that it is the respondent's sole responsibility to submit information related to the evaluation categories and that the State of South Dakota is under no obligation to solicit such information if it is not included with the proposal. The respondent's failure to submit such information may cause an adverse impact on the evaluation of the proposal.

- 4.1.1 **Respondent's Contacts:** Respondents and their agents (including subcontractors, employees, consultants, or anyone else acting on their behalf) must direct all of their questions or comments regarding the RFP, the evaluation, etc. to the Point of Contact indicated on the first page of this RFP. Respondents and their agents may not contact any state employee other than the buyer of record regarding any of these matters during the solicitation and evaluation process. Inappropriate contacts are grounds for suspension and/or exclusion from specific procurements. Respondents and their agents who have questions regarding this matter should contact the buyer of record.

4.2 The South Dakota State Bar Association will be contacted for information on any public disciplinary actions that may have occurred, the date of occurrence, and any other specific information that is deemed appropriate. Information provided may be used as an added evaluation piece of this RFP.

5.0 PROPOSAL RESPONSE FORMAT

- 5.1 An original and 6 (six) paper copies.
 - 5.1.1 In addition, the respondent should provide one (1) copy of their entire proposal, including all attachments, in Microsoft Word or PDF electronic format on a CD. Respondent may not send the electronically formatted copy of their proposal via email.
 - 5.1.2 The proposal should be page numbered and should be no more than 10 pages in length.
 - 5.1.3 All proposals must be organized and tabbed with labels for the following headings:
 - 5.1.4 **RFP Form.** The State's Request for Proposal form completed and signed.
 - 5.1.5 **Executive Summary.** The one page executive summary is to briefly describe the respondent proposal. This summary should highlight the major features of the proposal. It must indicate any

requirements that cannot be met by the respondent. The reader should be able to determine the essence of the proposal by reading the executive summary. Proprietary information requests should be identified in this section.

5.1.6 Detailed Response. This section should constitute the major portion of the proposal and must contain at least the following information:

5.1.6.1 A complete narrative of the respondent's assessment of the work to be performed, the respondent's ability and approach, and the resources necessary to fulfill the requirements. This should demonstrate the respondent's understanding of the desired overall performance expectations.

5.1.6.2 A specific point-by-point response, in the order listed, to each requirement in the RFP. The response should identify each requirement being addressed as enumerated in the RFP.

5.1.6.3 A clear description of any options or alternatives proposed.

5.1.7 Cost Proposal. Cost will be evaluated independently from the technical proposal. Respondents may submit multiple cost proposals. All costs related to the provision of the required services must be included in each cost proposal offered.

5.1.8 The cost proposal must be submitted in a separate sealed envelope labeled "Cost Proposal" as outlined in section 1.5 of this RFP. See section 7.0 for more information related to the cost proposal.

6.0 PROPOSAL EVALUATION AND AWARD PROCESS

6.1 After determining that a proposal satisfies the mandatory requirements stated in the Request for Proposal, the evaluator(s) shall use subjective judgment in conducting a comparative assessment of the proposal by considering each of the following criteria:

6.1.1 Specialized expertise, capabilities, and technical competence as demonstrated by the proposed approach and methodology to meet the project requirements;

6.1.2 Resources available to perform the work, including any specialized services, within the specified time limits for the project;

6.1.3 Record of past performance, including price and cost data from previous projects, quality of work, ability to meet schedules, cost control, and contract administration;

6.1.4 Availability to the project locale;

6.1.5 Familiarity with the project locale;

6.1.6 Proposed project management techniques; and

6.1.7 Ability and proven history in handling special project constraints; and

6.1.8 Cost.

6.2 Experience and reliability of the respondent's organization are considered subjectively in the evaluation process. Therefore, the respondent is advised to submit any information which documents successful and reliable experience in past performances, especially those performances related to the requirements of this RFP.

6.3 The qualifications of the personnel proposed by the respondent to perform the requirements of this RFP, whether from the respondent's organization or from a proposed subcontractor, will be subjectively evaluated.

Therefore, the respondent should submit detailed information related to the experience and qualifications, including education and training, of proposed personnel.

6.4 The State reserves the right to reject any or all proposals, waive technicalities, and make award(s) as deemed to be in the best interest of the State of South Dakota.

6.5 Award: The requesting agency and the highest ranked respondent shall mutually discuss and refine the scope of services for the project and shall negotiate terms, including compensation and performance schedule.

6.5.1 If the agency and the highest ranked respondent are unable for any reason to negotiate a contract at a compensation level that is reasonable and fair to the agency, the agency shall, either orally or in writing, terminate negotiations with the contractor. The agency may then negotiate with the next highest ranked contractor.

6.5.2 The negotiation process may continue through successive respondent, according to agency ranking, until an agreement is reached or the agency terminates the contracting process.

7.0 COST PROPOSAL

7.1 A respondent may submit multiple cost proposals to include one or more areas in any combination. Each cost proposal submitted must be clearly marked including the designated area or areas included in the proposal.

Exhibit A

POLICY CONCERNING CONFLICTS OF INTEREST

This policy is adopted to address the issue of potential conflicts of interest with regard to the State of South Dakota and attorneys contracting with the State of South Dakota (“State”) to perform legal services. This policy will be attached as an addendum to any contract for legal services entered into between the State and any attorney contracting to perform those legal services and shall become a part of that contract.

A. Except as provided in paragraph B of this policy, if an attorney contracting to perform legal services with the State has a pending claim against the State or its employees on behalf of a client; or in the event an attorney with an existing contract for legal services with the State is approached by a client seeking to file a lawsuit against the State or its employees, the contracting attorney shall notify the Attorney General and the manager of the state PEPL Fund in writing of that conflict of interest prior to the time a contract is signed or prior to undertaking representation of the adverse client. The Attorney General shall personally decide within ten working days whether or not the State will waive any conflict of interest created by that claim. The Attorney General will consider the magnitude of the claim against the State, the appearance of impropriety which could adversely affect the interests of the State, the degree, if any, to which the contracting attorney has or will gain access to information which would give him/her an undue advantage in representing a client whose interests are adverse to the State, whether the department or agency against which the claim is made is also a department or agency that will be represented by the contracting attorney, and any other factor which the Attorney General may deem pertinent in his discretion.

Notification of the Attorney General under this paragraph, prior to the commencement of an action is not required if the contracting attorney is approached by a client to commence an action against the State and the contracting attorney has a good faith belief that absent immediately filing, the action would be barred by a statute of limitations or comparable provision. Under these circumstances, the contracting attorney shall, as soon as practical, contact the Attorney General regarding the conflict and agrees that if the conflict of interest is not waived, to withdraw from representing the client in the pending action.

B. Any conflict of interest which may be created by the following situations will automatically be deemed to be waived by the Attorney General and will not be subject to the notification requirements of this policy statement:

1. Any action where the contracting attorney represents a codefendant with the State in a claim or lawsuit, regardless of any cross-claim or third-party claim which the State and the attorney’s non-State client may have against each other; unless the cross-claim or third-party claim was readily apparent at the time of contracting with the non-State client and seeks significant monetary consequences; the cross-claim is against a state agency which the contracting attorney represents; or by virtue of representation of the State under contract the attorney had access to information which would give the non-State client an unfair advantage.
2. Any condemnation action in which the contracting attorney represents a condemnee.
3. Any administrative licensing proceeding in which the contracting attorney appears representing a client, regardless of the fact that the client may make a claim which would be adverse to a position taken by a department or agency of state government; unless the claims, if successful, will have significant monetary consequences to the State; or by virtue of representation of the

State under contract the contracting attorney had access to information which would give the non-State client an unfair advantage.

4. Any administrative proceeding before the Department of Revenue in which the contracting attorney's client may have a claim which would create a potential liability for the State of South Dakota; unless the claim, if successful, will have significant monetary consequences to the State; or by virtue of representation of the State under contract the contracting attorney had access to information which would give the non-State client an unfair advantage.
5. Any bankruptcy proceeding in which the contracting attorney represents a client other than the State of South Dakota and in which the State of South Dakota has a secured or unsecured claim.
6. Any activity relating to the negotiation of a contract with the State of South Dakota and another client represented by the contracting attorney; unless the contracting attorney is actively representing the department or agency of state government with which the contract is being negotiated; or by virtue of representation of the State under contract the contracting attorney had access to information which would give the non-State client an unfair advantage.
7. The defense of any criminal action; unless the attorney has an existing contract as a special prosecutor in criminal actions for the State of South Dakota; or if, in representation of the State under contract, the contracting attorney had access to information which would give the non-State client an unfair advantage in the criminal action.
8. Any small claims action in which the contracting attorney represents any plaintiff or defendant with interests adverse to those of the State.
9. Any action brought through representation under a long-arm contract or appointment of any other governmental entity, whether or not that governmental entity has interests that are adverse to those of the State; unless the claim, if successful, will have significant monetary consequences against the State of South Dakota.
10. Any action in which the State is a named party but has only a nominal interest, as in mortgage foreclosures and quiet title actions.
11. Any lobbying activity by the contracting attorney.
12. Any worker's compensation case in which the contracting attorney represents a claimant; unless the contracting attorney represents the South Dakota Department of Labor in matters relating to worker's compensation claims or benefits.

C. The Attorney General reserves the right to raise a conflict of interest, notwithstanding the automatic waiver provisions of paragraph B of this policy, where a conflict of interest covered by the South Dakota Rules of Professional Conduct exists and in the discretion of the Attorney General, is it determined to be in the State's best interest to raise the conflict. The Attorney General shall notify the contracting attorney of the existence of the conflict and the delineation of waiver within seven days of the Attorney General's actual notice of the contracting attorney's action against the State.

D. For purposes of this policy: 1) the term “contracting attorney” means the attorney actually signing the agreement and his/her entire law firm; 2) the term “State” means the State of South Dakota and any branch, constitutional office, department, agency, institution, board, commission, authority, or other entity by state government; and 3) the term “significant monetary consequences” means that the suit, claim, action or other proceeding against the State, if successful, could reasonably result in the State making payments to the contracting attorney, the client or the class the client represents in excess of \$50,000 or in the case of the proceeding against the Department of Revenue, or other state taxing entity payments or lost revenue in excess of \$50,000.

E. This guideline shall not be construed as altering or reducing an attorney’s obligations to his/her client under the South Dakota Rules of Professional Conduct specifically stated herein.