



UPPER MACUNGIE TOWNSHIP

REQUEST FOR PROPOSALS AND QUALIFICATIONS FOR TOWNSHIP SOLICITOR

RFP #2024-11.01

Submission Deadline: Friday, December 6, 2024 – 4:00 p.m.

Contact:
Robert Ibach
Township Manager
8330 Schantz Road
Breinigsville, PA 18031

Phone: 610-395-4892
Email: ribach@uppermac.org

November 13, 2024

Upper Macungie Township Request for Proposal Township Solicitor

Introduction

Through this Request for Proposal (“RFP”), Upper Macungie Township (the “Township”) seeks to consider proposals for a Township Solicitor and Legal Counsel (the “Proposal”) for the years ending December 31, 2025 and 2026 commencing January 1, 2025 or upon appointment, whichever is later (the “Term”). This contract will be awarded through a fair and open process.

The Township is located in Lehigh County, Pennsylvania and operates under the Pennsylvania Second Class Township Code form of government, with an elected three (3) member Board of Supervisors who serve six-year terms and a Township Manager.

The Township is approximately 26.3 square miles, contains a residential population of nearly 29,000, has approximately 975 commercial units, an annual General Fund budget of approximately \$21.2 million, and a workforce of approximately 100 full and part-time employees. Both the Police Department and Public Works department employees are represented by their respective collective bargaining units.

The Township Solicitor shall be responsible for advising the Upper Macungie Township Board of Supervisors (the “Board”), its committees, and the Township Manager on all legal questions arising in the conduct of Township business; provided, however, the Township reserves the right to appoint special counsel to represent it in specific matters. The selected firm will provide legal support and render opinions in the following individual and/or combined areas:

General Counsel: Provide legal counsel to the Township on general issues including contracts, written policies and procedures, and recommended changes. Provide legal counsel on other miscellaneous or unusual circumstances including litigation.

Land Use: Provide legal counsel and opinions on issues relating to a variety of land use, planning, and zoning issues.

Labor/Employment: Provide general legal support on personnel issues or other miscellaneous matters relating to employment. The Township does appoint separate special counsel for labor issues.

The solicitor or its agents shall be in attendance at various meetings of the Board and Planning Commission. Attendance at various staff and committee meetings may also be required when requested. Information on the Township’s various meeting schedules can be found at www.uppermac.org.

Minimum Requirements & Qualifications

See Exhibit A.

Scope of Work

1. Provide legal advice, counsel, services, training, consultation, and opinions to the Board of Supervisors and all levels of the Township government on a wide variety of matters. Advice includes methods to avoid civil litigation.
2. Furnish legal representation at Board of Supervisors meetings, Planning Commission meetings, and at other meetings as requested.
3. Appear before courts and administrative agencies to represent the Township's interests.
4. Prepare and reviews ordinances and resolutions, contracts and other documents for legal accuracy and acceptability as well as approval as to legal form.
5. Assist Township officials and employees to maintain awareness of ethical standards, appearance of fairness standards, to avoid potential conflicts of interest, prohibited transactions, and the appearance of prohibited transactions.
6. Assist officials and employees to understand the legal roles and duties of their respective offices and interrelationships with others.
7. Provide the Board of Supervisors and Township management a legal perspective and advice on various governmental issues.
8. Perform other legal services and tasks as assigned by the Board of Supervisors and Township Manager.
9. Provide legal services required of real estate transactions, when necessary.
10. Counsel appropriate staff on enforcement of Township ordinances, Township policy and enforcement of Township building and zoning codes/ regulations.
11. Furnish legal opinions upon request and draft all legal documents and instruments required for the normal operation of the Township.
12. Provide written update on new or existing State or Federal legislation or judicial decisions impacting the Township and suggested action or changes in operations or procedures to assure compliance.
13. Provide advice on Right to Know Law, Sunshine Act, and records retention issues.

Proposal Elements

The following are required elements to be submitted with the Proposal:

1. **Contact Information**: Provide the name and address of the firm; the name, telephone number, and e-mail address of the individual responsible for the preparation of the proposal, and the principal professional (the "**Principal Professional**") assigned to the Township.
2. **Fee Proposal for the 2025 and 2026 Term**. The Applicant shall provide a fee structure and/or proposed hourly rate as well as any other costs that will be charged to the Township (the "**Fee Proposal**"). A proposal showing minimum and maximum ranges is not acceptable. The Fee Proposal shall include the following:
 - a. Identify the minimum period of time billed for services (i.e. telephone calls, conference calls, correspondence, etc.).
 - b. Provide the Township with detailed monthly activity reports and detailed invoices matching work tasks to charges.
 - c. Provide the Township with an out-of-pocket expense rate schedule identifying the type of service and reimbursement rates for expenses such as mileage, copying of documents, postage, faxes, and word processing charges.
 - d. Provide sample invoices for Township legal counsel.
3. An Executive Summary of not more than two (2) pages, identifying and substantiating why the Applicant is best qualified to provide the requested services.
4. A staffing plan listing those persons who will be assigned to the engagement if the Applicant is selected, including the designation of the person who would be the Applicant's principal professional responsible for all services required under the engagement. This portion of the proposal should include the relevant resume information for all individuals who will be assigned. The information should include, at a minimum, a description of the Principal Professional's relevant professional experience, years and type of experience, and number of years with the Applicant. One or multiple attorneys, depending on the size, structure, specialties, and preferences of the proposing firm, are acceptable. Applicant will need to show they have adequate staffing to provide the needed services to the Township, and respondents are welcome to submit alternative approaches to ensure the Township receives comprehensive representation of the highest quality.
5. A description of the Applicant's experience in performing services of the type described in this RFP. Specifically identify client size and provide specific examples of work within the scope of services required under this RFP **in similarly sized municipalities. It is imperative to show experience in similarly sized municipalities and second-class townships.**

6. The address of Applicant's office, which must be within a reasonable drive time to the Upper Macungie Township administration building, at which the firm proposes to perform services required under this RFP. Describe your presence in Pennsylvania and any familiarity your firm has with Lehigh County.
7. References, including at least three (3) municipal clients, three (3) current clients for whom services have been provided for at least three (3) years, and two (2) former clients for whom services have been provided within the past seven (7) years. Provide the contact names, titles, and phone numbers.
8. If the Applicant or any principal therein has been engaged as a defendant in any litigation involving a sum of \$100,000 or more and/or has been subject to any professional disciplinary action over the last three (3) years, the bidder must provide a description of the litigation and/or disciplinary action.
9. A description of any ongoing investigation and/or litigation matters involving the Applicant, its directors, officers, and principals and any individuals employed by the Applicant that relate to the performance of the Applicant in the proposed field of expertise.
10. Identify any existing or potential conflicts of interest and disclose any representation of parties or other relationships that might be considered a conflict of interest with regard to this engagement, or the Township.
11. A list of any Land Development companies that routinely do business in the Lehigh Valley that the firm or firm's representatives have provided legal counsel to in the last five (5) years.
12. The selected firm must maintain insurance coverage in accordance with the following requirements:
 - a. Worker's Compensation Insurance – meeting the requirements of all applicable laws and jurisdictions.
 - b. Professional/Errors and Omissions Liability Insurance - \$ 1,000,000 per claim \$2,000,000 aggregate
 - c. Employer's Liability Insurance – \$1,000,000 Bodily Injury each accident; \$1,000,000 Bodily Injury by disease – policy limit; \$1,000,000 Bodily Injury by disease – each employee
 - d. Commercial General Liability Insurance – Occurrence \$1,000,000; Aggregate \$2,000,000
 - e. Comprehensive Automobile Liability - Combined Single Limit \$1,000,000
 - f. Umbrella or Excess Liability - \$2,000,000 per occurrence

- g. Employment Practices Liability Including Third Party Liability \$500,000 per claim; \$1,000,000 aggregate
- h. The Township along with their respective officers, agents, and employees, shall be named as additional insureds for Ongoing Operations and Products/Completed Operations on the firm's Commercial General Liability Policy, which must be primary and noncontributory with respect to the additional insureds. The Primary noncontributory and waiver of subrogation applies to all policies, where allowed by law. This insurance shall remain in effect as set forth below, in the "Cancellation, Renewal and Modification" provision.
- i. It is expressly understood by the awarded firm that it is the intent of the Township and the awarded firm that any insurance obtained by the Township is deemed excess, non-contributory and not co-primary in relation to the coverage(s) procured by the firm, or any of their respective consultants, officers, agents, subcontractors, employees or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of the aforementioned may be liable by operation of statute, government regulation or applicable case law.
- j. To the fullest extent permitted by applicable state law, a Waiver of Subrogation Clause shall be added to the General Liability, Automobile and Workers Compensation policies in favor of the Township, and this clause shall apply to the Townships officers, agents and employees, with respect to all Projects during the policy term.
- k. Prior to commencement of services being provided, awarded firm shall submit a Certificate of Insurance in favor of the Township and an Additional Insured Endorsement (in a form acceptable to the Township) as required hereunder. The Certificate shall provide for thirty (30) days' notice to the Township for cancellation or any change in coverage. Copies of insurance policies shall promptly be made available to the Township upon request.
- l. Prior to commencement of services being provided, awarded firm shall enter into an Agreement for Professional Services which shall provide, in part, that the awarded firm agrees to indemnify, defend and hold harmless the Township, its officials, employees and consultants from and against any and all claims, damages, losses, and expenses, including but not limited to, fees and charges of attorneys, court and arbitration costs, arising out of or resulting from the work contemplated under this Agreement, or claims against the Township arising from the work of others including any claims Engineered upon or related to the design, inspection, and/or construction of any project, unless the claims, damages, losses, or expenses result from the proven sole negligence of the Township. This indemnification shall not be limited in amount or type of damages, compensation or benefits payable under workers' compensation acts, disability benefits acts, or other employee benefit acts.
- m. With regard to any and all claims against any additional insured by any employee of the awarded firm, anyone directly or indirectly employed by the awarded firm

or anyone for whose acts the awarded firm may be liable, the indemnification obligation shall not be limited by any limitation on the amount or type of damages, compensation or benefits payable by or for the awarded firm under workers' compensation acts, disability benefit acts or other employee benefit acts.

Evaluation Process & Key Dates

Only Proposals that adhere to all requirements contained in this RFP will be considered in the evaluation process. Qualifying Proposals will be evaluated by the Township Manager, the Assistant Township Manager, and the Board of Supervisors. Fees will not be the primary factor in the evaluations. The proposal calendar is as follows:

Distribution of RFP	November 13, 2024
Last day to submit questions	December 2, 2024
Deadline for Proposal submissions	December 6, 2024 at 4:00 p.m.
Applicant Interviews	December 9 – 13 th and 16 – 20 th
Award of RFP	January 6, 2025
Appointment as Township Solicitor	February 6, 2025

The Township's evaluation will include but will not be limited to the following evaluation criteria, separate or combined in some manner, and not necessarily listed in order of significance:

1. The Applicant's general approach to providing the services required under this RFP.
2. The Applicant's documented experience in successfully completing contracts of a similar size and scope to the engagement addressed by this RFP.
3. The qualifications and experience of the Applicant's key personnel assigned to the Township, with emphasis on documented experience in successfully completing work on contracts of similar size and scope to the services required by this RFP.
4. The depth and breadth of experience and expertise in the practice of law and ability to render advice on a wide range of legal issues.
5. Capability to perform legal services promptly and in a manner that permits the Board of Supervisors and Township Manager to meet established deadlines and to operate in an effective and efficient manner.
6. Degree of availability for quick response to inquiries that arise out of day-to-day operating questions or problems.
7. Degree to which firm and individual attorneys stay current through professional development and active communication with practitioners.
8. Absence of potential conflicts of interest.
9. Communication skills.

10. Cost of services.

11. Other qualifications/criteria as deemed appropriate by the Township.

The Board of Supervisors reserves the right to reject any and all Proposals and to waive any immaterial irregularities.

It is anticipated that the RFP shall be awarded by the Board at their regular meeting on January 6, 2025 and the firm be appointed as Township Solicitor at the Board's regular meeting on February 6, 2025. All Proposals shall remain valid until the service is awarded. Release of any Proposal information shall be conducted in accordance with the Pennsylvania Right to Know Act.

Interview

The Township Manager and Selection Committee reserve the right to interview any or all of the Applicants submitting a Proposal. Although interviews may take place, the Proposal should be comprehensive and complete on its face. The Township reserves the right to request clarifying information subsequent to submission of the Proposal.

Proposal Submission

All inquiries for information should be directed to:

Robert Ibach, Township Manager
ribach@uppermac.org
610-395-4892
Monday – Friday, 7:30 a.m. to 4:00 p.m.

An original, clearly marked as the "ORIGINAL", and five (5) full, complete and exact copies of each proposal and an electronic copy shall be submitted in a **sealed envelope/package and must be marked with "RFP #2024-11.01 – Township Solicitor" and addressed to:**

Upper Macungie Township
Attn: Robert Ibach, Township Manager
8330 Schantz Road
Breinigsville, PA 18031

Sealed proposals will be received until 4:00 p. m. on December 6, 2024.

Terms and Conditions

There is no express or implied obligation for the Township to reimburse Applicants for any expenses incurred in preparing Proposals in response to this request. The Township reserves the right to reject any and all Proposals, with or without cause, and waive any irregularities or informalities in the Proposals. The Township further reserves the right to

make such investigations as it deems necessary as to the qualifications of any and Applicants submitting Proposals.

It is the responsibility of each Applicant to examine carefully the requirements before submitting their Proposal.

Any questions related to this RFP should be directed to Robert Ibach, Township Manager, at ribach@uppermac.org or 610-395-4892. Contact with personnel of the Township other than the Township Manager regarding this RFP may be grounds for elimination from the selection process.

Professional Services Agreement

The selected Applicant shall submit to the Township for review and approval, prior to appointment, a proposed Professional Services Agreement setting forth the material terms of the engagement along with a waiver of copyright. The agreement shall include indemnification as outlined in this RFP.

Exhibit A

Upper Macungie Township Minimum Requirements & Qualifications for Township Solicitor

1. The applicant shall comply with and be subject to all provisions of (Article XI of the Second-Class Township Code, as amended, Sections 1101-1103) set forth herein as follows (Disclaimer: Each vendor is responsible to review The Second-Class Township Code to apply pertinent sections. The Second-Class Township Code as written is controlling and the foregoing is reprinted only for informational purposes):

Section 1101. Township Solicitor. The board of supervisors may appoint and determine the compensation of a township solicitor. The township solicitor shall be licensed to practice law in this Commonwealth and may be one person or a law firm, partnership, association or professional corporation. The township solicitor serves at the pleasure of the board of supervisors.

Section 1102. Solicitor to Have Control of Legal Matters. The township solicitor shall direct and control the legal matters of the township, and no official or official body of the township, except as otherwise provided under law, shall employ an additional attorney without the assent or ratification of the board of supervisors.

Section 1103. Duties of Solicitor. The township solicitor, when directed or requested so to do, shall prepare or approve any bonds, obligations, contracts, leases, conveyances, ordinances and assurances to which the township may be a party. The township solicitor shall commence and prosecute all actions brought by the township for or on account of any of the estates, rights, trusts, privileges, claims or demands, as well as defend the township or any township officer against all actions or suits brought against the township or township officer in which any of the estates, rights, privileges, trusts, ordinances or accounts of the township may be brought in question before any court in this Commonwealth and do every professional act incident to the office which the township solicitor may be authorized or required to do by the board of supervisors or by any resolution. The township solicitor shall furnish the board of supervisors, upon request, with an opinion in writing upon any question of law.

2. The Applicant shall be a multi-disciplined firm with experience in municipal law, municipal litigation, procurement, land use, commercial and construction law, contract law and tort law, and public sector labor and employment law related matters. The applicant shall have seven (7) years' experience as a municipal township solicitor for a municipality in the Commonwealth of Pennsylvania, two (2) years of which should be in a municipality with a General Fund budget in excess of fifteen (15) million dollars and/or over seventy-five (75) full time employees.
3. The applicant must demonstrate a high degree of knowledge, experience, and ability with the following:
 - a. The operation of local governmental units in Pennsylvania, including a Second-Class Township.

- b. Preparation and review of ordinances, resolutions, agreements, contracts, forms, and other documents required by the Township.
- c. Acquisition and disposition of Real Estate, for both Open Space and other municipal uses.
- d. Storm water management regulations and issues.
- e. Expertise in review of reimbursement agreements with State and Federal agencies for Township projects.
- f. Zoning, Subdivision, and Land Development, and PA Municipal Land Use Law.
- g. PA Municipalities Planning Code, Uniform Construction Code, Property Maintenance Code, and International Fire Code.
- h. Extensive knowledge of Local Public Contracts Law and Intermunicipal Agreements.
- i. Selling and purchasing of Township real estate and/or property.
- j. Tax law, debt collection, business law, bankruptcy, real estate, construction contracts, management and dispute resolution, various administrative and judicial procedures.
- k. Local government employment law.
- l. Experience in a Board of Supervisors-Manager form of Government.
- m. Knowledgeable with PA Public Official and Employee Ethics Act, Sunshine Act, and Right to Know Law.
- n. Litigation experience for plaintiffs and defendants, not only at the Common Pleas level, but also the Commonwealth Court level.
- o. Expertise in reviewing contract documents for contractors, performance, responsibilities, and liability requirements.
- p. Expertise in writing and reviewing deed descriptions for property transfer.
- q. Knowledge of the environmental laws that pertain to wastewater management.
- r. Attend and provide knowledgeable legal advice at all Board of Supervisors meetings, committee meetings, Planning Commission meetings, code enforcement court appearances, a bi-weekly meeting with Community Development staff during business hours, and any other meetings as

necessary.

4. The applicant must be licensed to practice law in the Commonwealth of Pennsylvania and be in a member of the Pennsylvania Bar Association in good standing. Include a list of any other professional qualifications; experiences and/or credentials you feel are relevant to this RFP.
5. The Applicant shall comply with and be subject to all provisions of Federal, State, and Local laws and regulations.

Exhibit B

NON-COLLUSION AFFIDAVIT

State of _____

County of _____

_____, being first duly sworn, deposes and says that:

(1) He/She is _____
(Owner, Partner, Officer, Representative or Agent of Proposer)

of _____, (the "Proposer") that has submitted the
(Name of Proposer)
attached Proposal;

(2) He/She is fully informed respecting the preparation and contents of the attached Proposal and of all pertinent circumstances respecting such Proposal;

(3) Such Proposal is genuine and is not a collusive or sham Proposal;

(4) Neither the Proposer nor any of its officers, partners, owners, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, with any of Proposer, firm or person to submit a collusive or sham Proposal or complimentary Proposal in connection with the Contract for Services which the attached Proposal is submitted or to refrain from submitting in connection with such Contract for Services, or has in any manner, directly or indirectly, sought by agreement or collusion or communication of conference with any other Proposer, firm or person to fix the price or prices in the attached Proposal of any other Proposer, or to fix any overhead, profit or cost element of the prices in the Proposal or the price of any other Proposer, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the County or any person interest in the proposed Agreement;

(5) The price or prices quoted in the attached Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Proposer or any of its agents, representatives, owners, employees, or parties in interest, including this affiant; and,

(6) Neither the said Proposer nor any of its officers, partners, owners, agents or parties in interest, have any interest, present or prospective, that can be reasonably construed to result in a conflict of interest between them and the County, which the Proposer will be required to perform.

[Signatures on Following Page]

[Signature Page to Non-Collusion Affidavit]

I state that _____ understands and
(Name of Proposer)
acknowledges that the above representations are material and important and will be relied on by the Township of Upper Macungie in awarding the Contract for Services for which the Proposal is submitted. I understand and the Proposer understands that any misstatement in this Non-Collusion Affidavit is and shall be treated as fraudulent concealment from the Township of Upper Macungie of the true facts relating to the submission of proposals for this agreement.

By: _____
Authorized Signatory

Name: _____

Title: _____

SWORN TO AND SUBSCRIBED
BEFORE ME THIS _____ DAY
OF _____, 2024

_____ My Commission Expires: _____
Notary Public