



REQUEST FOR QUALIFICATIONS FOR PUBLIC DEFENSE SERVICES

CHURCHILL COUNTY, NEVADA

SUMMARY OF REQUEST

Churchill County is requesting qualifications from attorneys and/or law firms interested in contracting for public defender services for indigent defendants appearing to answer criminal charges in the 10th Judicial District Court and the Justice Court of New River Township as well as Drug Court, in Fallon, Churchill County, Nevada. Additionally, the attorneys will be responsible for appointed representation for juveniles alleged to have committed delinquent acts and/ or children in need of supervision, as well as appointments to represent parties in 432B cases and proceedings to terminate parental rights. Please review the proposed contract for more details on responsibilities.

Churchill County currently contracts with three independent attorneys for indigent defense. **At least one is open for appointment.**

The contract shall be for an amount of \$120,000 annually, payable in equal monthly installments for the provision of all indigent defense services as outlined herein. **Please note that the County Commissioners are considering an increase in this compensation at its meeting scheduled for September 20th.** Attorneys will be able to seek extra compensation for costs and fees related to investigations and extraordinary cases. Capital cases are outside the scope of the contract.

The successful applicants will contract with the County for public defense services as independent contractors and will not be entitled to any County benefits of any nature whatsoever. The successful applicants will be responsible for the performance of all of the obligations under the contract in conformance with the Nevada State Bar Association Rules of Professional Conduct.

The term of the contract will be for two years, beginning on December 1, 2017. At the conclusion of the two year term the County will either renegotiate the contracts with existing attorneys or will seek applicants again.

Between the Justice Court and District Court, the attorneys will be subject to scheduling by the judges anytime Monday through Friday, and potentially on the weekends if the court deems it necessary. It is the attorney's responsibility to ensure their schedule allows for the provision of indigent services pursuant to the calendars of the courts.

TIME SCHEDULE

The County will follow the following timetable, which should result in a selection of a public defender by November 2, 2017.

Deadline for Submittal of Proposals – October 18, 2017, at 12:00 p.m.

Selection by the Board of County Commissioners – November 2, 2017, at 8:15 a.m.

SCOPE OF SERVICES - GENERAL DESCRIPTION

Pursuant to Chapter 171.188 of the Nevada Revised Statutes, all indigent criminal defendants are entitled to legal representation at public expense. The Public Defenders will provide legal representation for each of these defendants from court appointment through trial, sentencing, post-conviction review and any appeals to District or Nevada Appellate/Supreme Courts. Cases will include juveniles accused of committing delinquent acts or alleged to be children in need of supervision as well as juvenile matters under NRS 432B and termination of parental rights proceedings. The public defenders will also provide criminal defense services at in-custody bail hearings, arraignments, and will be available to talk and meet with indigent defendants in the Churchill County Jail within 72-hours of arrest.

The public defender is required to maintain an office and regular office hours in the City of Fallon during the duration of this contract for meeting with indigent defendants. Pursuant to the provisions of NRS 260.040, a public defender in a county whose population is less than 100,000 may engage in the private practice of law.

The RFQ is available on the County's website (www.churchillcounty.org) or may be obtained from:

County Clerk/Treasurer
155 N. Taylor Street, Suite 110
Fallon, Nevada 89406
(775) 423-6028
email: pammoore@churchillcounty.org

To ensure consideration of your submittal, response to the RFQ must be received by noon on October 18, 2017. No faxed, email, or telephone applications will be accepted. Any responses received after noon on October 18, 2017, will not be considered.

INSTRUCTIONS TO PROPOSERS

- A. All applications with qualifications should be sent by mail, courier or hand delivered to:

Pam Moore

Clerk/Treasurer
Churchill County
155, N. Taylor St, Suite 110
Fallon, NV 89406

- B. Applications must be in a sealed, opaque envelope and clearly marked in the lower left-hand corner: "RFQ-Public Defender". All courier delivered applications must be in a sealed, opaque inner envelope with the appropriate markings thereon.
- C. Applications should be prepared simply and economically, providing a straightforward, concise description of provider capabilities to satisfy the requirements of the request. Special bindings, colored displays, promotional materials, etc., are not desired. Emphasis should be on completeness and clarity of content. Please provide six (6) copies of your applications for consideration.
- D. Applications will not be opened publically but a list will be posted identifying those who submitted applications.
- E. Applications will be evaluated and ranked by the County Manager, Comptroller and Chief Civil Deputy District Attorney. A recommendation will then be made to the Board of County Commissioners at an open meeting.
- F. The materials along with any recommendations for the position will be forwarded to the Churchill County Board of Commissioners.
- G. All applications must include the following information:
- The names, Nevada State bar numbers and qualifications of the attorney(s) who will be providing public defense services and their areas of responsibility.
 - Specific experience of the attorney(s) trial work with an emphasis on criminal cases.
 - A proposal of how the applicant intends to fulfill his/her duties under the contract. Applicants must submit information concerning the location of attorney office, accessibility by telephone to defendants without incurring long distance charges, and office hours or appointment times scheduled for the attorney.
 - How the attorney(s) and/or firms who will be providing public defense services meeting the Nevada State Bar Association Rules of Professional Conduct.
 - Any criminal or professional disciplinary findings that have been entered against any of the attorneys who will be providing public defense services, regardless of originating jurisdiction.

- Whether the attorney currently has professional liability insurance, and the policy limits, or an assertion that the attorney is willing and able to obtain liability insurance as required if awarded the contract.
- References.
- Contract Exceptions.

IV. SELECTION CRITERIA

- A. Reputation and qualifications of the specific individuals to be assigned to act as Public Defender, including ability and history of successfully completing contracts of this type, meeting deadlines, office hours and experience in similar work, with consideration given to references. 75 points
- B. Responsiveness and completeness of the written proposal to the purpose and scope of service. 25 points.

Total Criteria Weight 100 points

Each proposal will be independently evaluated on factors (a) and (b).

V. TERMS AND CONDITIONS

- A. The County reserves the right to reject any and all applications, and to waive minor irregularities in any proposal.
- B. The County reserves the right to request clarification of information submitted, and to request additional information from any applicant.
- C. The County reserves the right to award any contract to who, in the opinion of the Board of Commissioners, is the next most qualified applicant. If the successful applicant does not execute a contract within one week after the applicant has been notified of selection the County will move on to the next most qualified applicant to negotiate a contract.
- D. The County shall not be responsible for any costs incurred by the attorney/s or firm/s in preparing, submitting or presenting its response to the RFQ.
- E. In submitting an RFQ the attorney or firm agrees to accept the financial terms offered for the time specified by the County.

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VI. CONTRACT

A proposed contract is included in this RFQ. All applicants are expected to read and understand the terms of the contract prior to submitting an application. Any exceptions to the contract terms must be noted in the application submittal.

**CONTRACT FOR PROFESSIONAL SERVICES
BETWEEN
CHURCHILL COUNTY, NEVADA
AND
XXXXXXX.
FOR
INDIGENT LEGAL SERVICES**

WHEREAS, Churchill County (hereinafter “County”) is a political subdivision of the State of Nevada, and is required to provide for indigent legal services; and

WHEREAS, the Churchill County Board of County Commissioners desires to appoint three attorneys and/or law firms, who will act independently from each other, as Public Defenders of the County, pursuant to Churchill County Code 2.56 and Nevada Revised Statutes 260.010; and

WHEREAS, the County desires to contract with XXXXXX. (hereinafter “Contractor”) as one of the three Public Defenders in order to provide legal services to those indigents involved in the Courts in the County; and

WHEREAS, it is deemed that the services of Contractor herein specified are both necessary and desirable and in the best interests of the County; and

WHEREAS, Contractor represents that he/she is licensed to practice law in Nevada and in good standing with the State Bar, and is also duly qualified, equipped, staffed, ready, willing, and able to perform and render the services hereinafter described;

NOW, THEREFORE, in consideration of the matters described above, and of the mutual benefits and obligations set forth in this Contract, the parties mutually agree as follows:

1. **TERM OF CONTRACT.** Upon execution by both parties, the Contract will be effective for three years and seven months, from December 1, 2017 through June 30, 2021, unless terminated under the provisions contained herein.
2. **WORK TO BE PERFORMED.** The parties agree that the services to be performed are as follows:
 - A. The Contractor shall represent adult criminal defendants that a Court in the County has determined to be indigent. The representation shall include all stages of the criminal proceedings, including, but not limited to, appeals, revocation of probation or parole, and participation in any diversion program arising under provision of state law. Furthermore, Contractor shall be responsible for the sealing of any eligible record relating to an indigent person in consequence to participation in any diversion program.
 - B. The Contractor shall provide legal representation for a child alleged to be delinquent or in need of supervision where the Court or Juvenile Master

orders the appointment in accordance with NRS Chapter 62. Representation shall include all stages of the proceedings, including, but not limited to, disposition, appeals, and revocation of probation or parole.

- C. The Contractor shall perform the services of an attorney for a parent or other person responsible for a child's welfare when that parent or other person is alleged to have abused or neglected that child and the Court orders the appointment of the Contractor pursuant to NRS 432B.420, or any termination of parental rights proceedings under NRS Chapter 128.
- D. Capital Cases are outside the scope of this Contract. Upon the State filing a Notice of Intent to Seek Death Penalty, statutory appointment procedures and rates shall apply.

3. STANDARD OF WORK.

- A. In providing legal representation as set forth in Section Two, Contractor must provide those services in a professional, competent, and effective manner. This includes but is not limited to interviewing the client, appearing on time and prepared at all Court hearings or providing coverage for those hearings, filing all necessary motions or other legal documents, and performing or supervising any necessary investigations.
- B. Contractor acknowledges that there will be two other attorneys who will have executed similar agreements and agrees to cooperate with the other attorneys to ensure that all Courts are adequately covered by one or more of the attorneys. Contractor further agrees to cooperate with the other two attorneys to ensure, to the extent possible under ethical requirements, that all cases are covered, that any conflicts are resolved by the three public defenders, and that appointments are completed in a manner that ensures equitable workload between the attorneys.
- C. Contractor agrees that he will at all times faithfully, industriously, and to the best of his knowledge, experience, and talents, perform all of the duties that may be required of him under the terms of this Contract.
- D. If at any time during the representation of a person the Contractor has reason to believe the person is not indigent, the Contractor must immediately notify the Court.

4. OFFICE.

- A. Contractor agrees to staff and maintain an office in Churchill County, Nevada. Included in the payment for services of this Contract (see Section Six) is an allowance for office space, furniture, equipment, and supplies, pursuant to NRS 260.040. The cost of routine investigation, secretarial services, and any other necessary expense for the Contractor's practice as required by this

Contract is the sole responsibility of the Contractor. The County shall be responsible for the provision of transcripts for appointed cases.

- B. Contractor agrees to furnish to the Justice Court, District Court, and District Attorney, a telephone number for use after normal office hours in the event of an emergency that may arise where Contractor's services are requested pursuant to the terms of this contract.
- C. Contractor may engage in the private practice of law which does not conflict with Contractor's professional services required pursuant to this Contract. Contractor shall not represent any person in a suit or claim that is averse to the County.

5. REPORTING.

- A. Contractor shall provide, on a monthly basis, a report to the County Manager containing the following information:
 - i. The total number of cases on which the Contractor has been appointed during the month, designated by their status: misdemeanor, gross misdemeanor, felony in a form approved by the County.
- B. If any State statute or Nevada Supreme Court Rule in effect now or hereinafter enacted requires public defenders to provide certain information or reports, Contractor agrees to provide and maintain that information at no additional cost to the County.
- C. Contractor agrees to provide this required report along with his invoice for services rendered pursuant to Section 6 herein. Payment shall not become due until the required report is submitted.

6. PAYMENT FOR SERVICES.

- A. Contractor agrees to perform the work set forth in Section Two for payment in the amount of One Hundred Twenty Thousand Dollars (\$120,000.00) annually. The County will make payment to Contractor in twelve equal monthly installments. The first payment shall be due on December 5, 2017, and payments shall become due thereafter on a monthly basis after fulfilling the requirements of Section 6(C).
- B. The Contractor may secure reimbursement for extraordinary investigative costs, expert witness fees, or other necessary services if so ordered by a Court, pursuant to NRS 7.135. Mileage and travel expenses of Contractor are the responsibility of Contractor.
- C. Contractor shall submit to the County Manager an invoice for services rendered on a monthly basis. The invoice shall include the normal fee for

services rendered as well as any reimbursable expenses. County shall pay the amount of the invoice within fifteen business days of receipt of the invoice and report required in Section 5 above.

- D. The compensation specified above is in lieu of the statutorily prescribed fees codified in NRS 7.125. However, the Court may, for the reasons specified in NRS 7.125(4) (a)-(d), award extraordinary fees to Attorney in a particular matter, which are over and above the compensation specified provided that the statutorily prescribed procedures contained in NRS 7.125(4) are complied with.

For example: If the most serious charge in the extraordinary case is a felony, the attorney may apply to the court for fees in excess of \$2,500 (e.g. \$500). The County will pay the Attorney the amount that exceeds the statutory amount contained in NRS 7.125 (e.g. \$500).

- 7. INDEPENDENT CONTRACTOR STATUS.** The parties agree that Contractor shall have the status of and shall perform all work under this Contract as an independent contractor. The Contract does not create an employer/employee relationship, and the County does not control the means by which Contractor provides services. Contractor is not a County employee and there shall be no:

- A. Withholding of income taxes or other taxes by the County;
- B. Industrial insurance coverage provided by the County;
- C. Participation in group insurance plans which may be available to employees of the County;
- D. Participation or contributions by either the Contractor or the County to the public employee's retirement system;
- E. Accumulation of vacation leave or sick leave provided by the County;
- F. Unemployment compensation coverage provided by the County if the requirements of NRS 612.085 for independent contractors are met.

8. PROFESSIONAL LICENSING AND LIABILITY INSURANCE.

- A. Contractor represents himself as meeting all licensing requirements as an attorney within the State of Nevada and further represents that he is in good standing with the highest attorney licensing authority of the State of Nevada. Contractor agrees to maintain his professional license to practice law in active status and good standing for the State of Nevada during the term of this Contract at Contractor's expense. Failure to maintain this license in good standing may result in immediate termination of this Contract. Contractor shall notify the County Manager if they are brought before the Nevada State Bar or the Nevada State Ethics Commission on an ethics charge or if they are arrested for a crime.

B. Contractor also agrees to acquire and maintain professional liability insurance, including errors and omissions coverage, in the minimum amount of \$500,000.00 per claim and \$1,000,000.00 aggregate during the term of this Contract. The insurance coverage shall be written by an insurance carrier authorized to write such policies in the State of Nevada, and the coverage must be in existence at the time of execution of this Contract as a condition precedent. The cost of the insurance is the sole responsibility of the Contractor.

C. Concurrently with the execution of this Contract, Contractor shall provide to the County a certificate of liability insurance evidencing the coverage limits required by this Contract.

9. TERMINATION OF CONTRACT. Either party may revoke this Contract, with or without cause, provided that a revocation shall not be effective until ninety (90) calendar days after the party has served written notice upon the other party. All pending cases that were produced for this Contract must be immediately turned over to whomever the appropriate Court designates re-assignment. If terminated, the payment for services of the Contractor will be reduced to the proportionate number of days worked by the Contractor. The Contractor must reimburse the County for any funds received to which he is not entitled due to the termination. In the event any changes are made to the laws or regulations of the State of Nevada which force the termination of this Contract or any modification thereof, neither party is liable for default of this Contract or for any damages of any kind.

10. NON-ASSIGNMENT. The County is contracting for the personal and professional services of Contractor. This Contract may not be assigned or delegated in whole or in part to a third party without the approval of the Board of County Commissioners. If the Contractor wishes to have a substitute attorney appear for him for any reason, then Contractor may do so and is responsible for the cost of the substitute attorney. There is no requirement to have the approval of the Board of County Commissioners for substitutions that are less than twenty (20) judicial days per year, or five (5) consecutive days.

11. CONSTRUCTION OF CONTRACT. This Contract shall be construed and interpreted according to the laws of the State of Nevada. There shall be no presumption for or against the drafter in interpreting or enforcing this Contract.

12. PARAGRAPH HEADINGS. The titles to the paragraphs of this Contract are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the construction of this Contract.

13. DISPUTE RESOLUTION. If any dispute arises over the interpretation of this Contract or the performance of this Contract, Contractor shall contact the County Manager and attempt to resolve the matter. If the County Manager and Contractor cannot agree, Contractor may request that the matter be brought before the Board of County

Commissioners for discussion and possible resolution. Any action to enforce the terms of this Agreement must be brought in the Tenth Judicial District Court of the State of Nevada, in and for the County of Churchill. In the event that any action is filed in relation to this Contract, each party shall be responsible for their own attorney fees.

- 14. IMPLEMENTATION.** The parties acknowledge that the Judicial Branch, pursuant to statute and the Separation of Powers Doctrine has the express authority to determine eligibility for assignment of attorneys in particular cases pursuant to this Contract. It is contemplated by the parties that the Courts will evenly and equitably assign cases between the three contracted attorneys and/or law firms
- 15. COMPLIANCE WITH APPLICABLE LAW.** Contractor shall fully and completely comply with all applicable local, state, and federal laws, regulations, orders, or requirements of any sort in carrying out the obligations of this Contract, including Court rules and regulations.
- 16. NO WAIVER.** The failure of any party to this Contract to insist upon the performance of any of the terms and conditions of this Contract, or the waiver of any breach of any of the terms and conditions of this Contract, shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.
- 17. CLIENT FILES.** Contractor shall maintain the files of appointed clients as required by state statute or rule.
- 18. INDEMNIFICATION.** Contractor agrees to indemnify and save and hold the County, its officers, agents, and employees harmless from any and all claims, causes of action, or liability arising from the performance of this Contract by Contractor or Contractor's agents or employees.
- 19. MODIFICATION OF CONTRACT.** This Contract constitutes the entire contract between the parties and may only be modified by a written amendment signed by both parties. There are no promises, terms, conditions, or obligations other than those contained in this Contract.
- 20. SEVERABILITY.** Each provision of this Contract is severable from the whole. If any portion of this Contract is deemed to be invalid, that invalidity shall not impair the remaining provisions of this Contract.
- 21. NOTICES.** All notices or other information that is to be submitted to a party shall be sent to the following address:

Churchill County Manager
155 North Taylor Street
Suite 153

Attorney

Fallon, NV 89406

22. EFFECTIVE DATE. This Agreement shall be effective as of December 1, 2017.

IN WITNESS WHEREOF, the parties hereto have caused this contract for legal services for the Indigent Legal Services to be signed and intend to be legally bound thereby.

Attorney (Date)

Board of County Commissioners (Date)

Attest:

Churchill County Clerk (Date)