

Request for Qualifications (RFQ)

14-03-IDC-01

Submission Deadline

On-Going

Prepared by Cochise County

Procurement Department



**On behalf of the Cochise County
Indigent Defense Coordinator Office**

IDC Contract Attorney Services

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Attachments Included by Reference:

- Attachment 1 – General Terms and Conditions**
- Attachment 2 – Sample Agreement**
- Attachment 3 – RFQ Questionnaire**

1.0 **Introduction**

It is the intent of Cochise County (hereby referred to as “the County”) through this Request for Qualifications (RFQ) to supplement the qualified list of attorneys utilized for felony, dependency, severance, delinquency and misdemeanor cases. It is the option of the County to enter into an agreement with any attorney deemed as qualified through the recommendation of the Indigent Defense Evaluation Committee (hereby referred to as “the Committee”) based on information submitted to the County as requested and outlined within this document. Any and all agreements will be valid for one year from the date of execution of the agreement, with the option to extend on a year to year basis at the County’s discretion for a maximum of four (4) additional one (1) year periods.

Statements of Qualifications (SOQs) will be evaluated within approximately thirty (30) days after receipt of your submittal. You will receive notification of the Committee’s recommendation shortly thereafter, and if approved, be sent an agreement for your signature.

This solicitation replaces any Superior Court Administrative Order regarding compensation and associated expenses of court-appointed counsel. Any assignments made by IDC prior to the effective date of this solicitation shall be at the rate in effect prior to this solicitation.

Attorneys responding to this RFQ should carefully review the information provided herein and shall meet the minimum qualifications provided in Attachment 1, Exhibit B. Your ability to demonstrate an understanding of the duties and responsibilities of Indigent Client Representation and to submit a **responsive** statement of qualifications based on the requirements of this RFQ will be used as an indication of your ability to provide competent legal defense services if awarded an agreement. Failure to respond as requested in Section 4 of this RFQ may result in the rejection of your submittal.

Compensation for performing legal defense services for indigent clients has been pre-established and shall be in accordance with Attachment 1, Sections 1.B-C, 2.A-E, and Attachment 1, Exhibit A, Compensation Schedule.

This RFQ includes a description of the evaluation and selection process, scope of work, assignment of work and the contract that will be used. Assignment of cases is described in Section 3 of this RFQ. No guarantee is made regarding the frequency of assignments or volume of work that may be offered.

Direct all inquiries regarding this RFQ in writing to:

Brandon L. Morrison
Contracts Administrator
Cochise County Procurement Department
1415 Melody Lane, Bldg. C
Bisbee, AZ 85603
Office: (520) 432-8391
Fax: (520) 432-8397
Procurement@cochise.az.gov

Do not contact any other County departments or other County staff directly. Information provided by personnel other than the above contact may be invalid and statement of qualifications which are submitted in accordance with such information may be declared non-responsive.

2.0 Scope of Work/Compensation

The scope of work and compensation is provided in Attachment 1, Exhibit A, included herein. Additionally, the following requirements shall be adhered to at all times:

Maintain records on the cases assigned under the contract, including, but not limited to, the following statistical data: client name, date assigned, case type, case name, case number, the charge or nature of the case, applicable statutes, hours worked and names of staff, investigator or experts, case disposition, sentencing date, judge, case closing date and interpreter (if applicable).

3.0 Assignment of Work

Selection of an attorney off the qualified list(s) shall be based on expertise or qualifications related to the specific case, past performance on previous cases, availability and additional resources. Assignments of cases to the Attorney and other independent contract attorneys shall be made at the sole discretion of the IDC.

4.0 Preparation of Response – Required Content

Each response to this RFQ shall include the information described in this section. Failure to include all of the elements specified may be cause for rejection of the proposal. Additional information may be provided but should be succinct and relevant to the requested information contained within this RFQ. Excessive information will not be considered favorably. If respondents choose to submit their application packages via hard copy, these documents shall be submitted on paper that is 8 ½ X 11 inches or folded to such a size.

All submittals shall contain the following elements, in the order given:

4.1 Letter of Interest shall include the following information:

A cover letter (template available) should be submitted to include the following information:

- A. A detailed description of your understanding of the needs of indigent defense clients and your capacity to efficiently and effectively manage a dynamic caseload;
- B. A resume demonstrating your relevant education, training and experience, and that you meet and/or exceed the minimum qualifications for the case types requested;
- C. At least three (3) professional references including contact name, occupation, current address and telephone numbers. By providing such references you agree that neither the County nor the clients referenced shall have any liability regarding the provision of such references or the County's use of such references in making selections under this request for proposal. The County reserves the right to contact additional references discovered from its own research.

4.2 RFQ Questionnaire

Respondent shall fill out, in its entirety, the attached **Attachment 2 – RFQ Questionnaire** in order to be considered for any agreement regarding this RFQ.

4.3 Confidentiality

All submittals will be considered public information and, subsequent to award of this RFQ, all or part of any submittal will be released to any person or firm who requests it. Respondents shall specify within their Cover Letter if they desire that any portion of their submittal be treated as proprietary and not releasable as public information. However, Respondents should be aware that all such requests may be subject to legal review and challenge.

4.4 Insurance

Provide a statement of assurance of your ability to fulfill the insurance requirements as described in Attachment 1, Section 20.

5.0 Submittal Instructions

5.1 Hard Copy Submittal: Submit **one (1) original copy** of your submittal. All responses shall be submitted in a sealed envelope or container and clearly marked with the RFQ number and title on the outside of the parcel. Submittals shall be delivered **ONLY** to:

**Cochise County
Attn: Brandon L. Morrison
Procurement Department
1415 Melody Lane, Bldg. C
Bisbee, AZ 85603**

E-Mail Submittal: If vendor is submitting via email, emailed responses will only be accepted at the following email address: Procurement@cochise.az.gov.

5.2 Submittals delivered to a location other than the above will not be considered duly delivered. The County of Cochise shall not be responsible for re-routing submittals delivered to a person or location other than that specified above.

5.3 Faxed submittals shall not be accepted.

5.4 All submittals, whether selected or rejected, shall become the property of Cochise County and will not be returned.

5.5 The County of Cochise reserves the right to waive minor defects and/or irregularities in submittals and shall be the sole judge of the materiality of any such defect or irregularity.

5.6 All costs associated with submittal preparation shall be carried by the offeror. The County shall not be held indemnified of any costs associated with any submittals and the materials contained therein, whether accepted, rejected, or considered non-responsive.

5.7 All submittals shall remain valid for a period of sixty (60) days following the receipt date of the submittal.

6.0 Evaluation Criteria

The following evaluation criteria will be used to determine whether an Attorney/Firm will be added to the qualified list and awarded a contract through this RFQ process:

- Reputation and Experience, Capacity to Perform
- Qualifications and Standards of Representation
- Understanding of the Scope of Work
- Results of Reference Checks
- The Committee may evaluate Dependency Attorney in addition to affidavit for Rules 40.1 and 40.2 upon submission of package.

7.0 **Selection Procedures**

- 7.1** Submittals will be reviewed for responsiveness and ability to meet the minimum qualifications, and responsive proposals will further be screened by a selection committee in accordance with the above criteria.

- 7.2** The County reserves the right to make an award without further discussion of the submittal with the Respondent. Therefore, the submittal should be submitted initially on the most favorable terms that the Respondent may propose.

- 7.3** The County reserves the right to award a contract to Respondent(s) who, in the sole judgment of the County, provides the most favorable responses to this RFQ pursuant to the Evaluation Criteria indicated above.

- 7.4** The County reserves the right to reject any or all submittals, or to waive minor irregularities in said submittals, or to negotiate minor deviations with the successful firm.

**Cochise County
Procurement Department
General Terms and Conditions
Attachment 1 to PSA 14-03-IDC-01**

1.0 Cost, Payment and Pricing

1.1 Taxes

The County is responsible for the payment of all applicable sales and use taxes as may be required by Arizona State and its sub-departments. The County is exempt from all Federal Excise taxes. Out-of-state vendors shall not apply sales tax to purchases made by the County, unless required by their state. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.

1.2 Payment Terms

The County, unless otherwise specified on the Contractor's submission documents, reserves the right to apply Net 30 payment terms to all invoices submitted after the contract is awarded. The County will include any relevant discount terms during the evaluation for contract award, if it is deemed to be in the best interest of the County.

Further, payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the County within thirty (30) days.

1.3 IRS W9 Form

In order to receive payment, the Contractor shall have a current I.R.S. W9 Form on file with the County.

1.4 Fixed-Profits and Overhead

All contracts awarded by the County shall be awarded on the basis of a fixed profit and overhead rate that shall be honored by the contractor throughout the life of the contract, including any applicable modifications or change orders, unless expressly exempted, with a written determination, by the County. This profit and overhead rate will be applied to any change orders or modifications regarding the increase of contract funding.

The County reserves the right to except this provision if it is determined, in writing by the County Procurement Department, to be in the best interest of the County to waive the fixed-profits and overhead clause at the time of award or through a written modification. If it is determined to be in the best interest of the County, profits and overhead shall not exceed an aggregate 25% for any contract award, change order, or modification, unless otherwise approved by the Board of Supervisors.

1.5 Tax Indemnification

Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall require all subcontractors to hold the County harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

1.6 Availability of Funds for the current State fiscal year

Should the Board of Supervisors reduce the appropriations for any reason and these goods or services are not funded, the County may take any of the following actions:

- Accept a decrease in price offered by the contractor;
- Cancel the Contract; or
- Cancel the contract and re-solicit the requirements.

1.7 Availability of Funds for the Next Fiscal Year

Funds may not presently be available for performance under this Contract beyond the current County fiscal year. No legal liability on the part of the County for any payment may arise under this Contract beyond the current County fiscal year until funds are made available for performance of this Contract.

1.8 Right of Offset

The County shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the County, or damages assessed by the County concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

1.9 Payment by the County

Each payment obligation of the County created hereby is conditioned upon the availability of County, State, and Federal funds that are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the County and available for the continuance of services herein contemplated, the contract period for the service may be terminated by the County at the end of the period for which funds are available. The County shall notify the Contractor at the earliest possible time which service will or may be affected by a shortage of funds. No penalty shall accrue to the County in the event this provision is exercised, and the County shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

2.0 Contract Specific

2.1 Arizona Law

The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7 and the policies of the Cochise County Procurement Policy.

2.2 Provisions Required by Law

Each and every provision of Law and any clause or terms required by Law to be in the Contract shall be read and enforced as though it were included herein. And if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Contract shall forthwith be physically amended to make such insertion or correction.

2.3 Contract Order of Precedence

In the event of a conflict in the provisions of the Contract, as accepted by the County and as they may be amended, the following shall prevail in the order set forth below, if included within the contract:

- 1.0 Special Terms and Conditions;
- 2.0 Uniform Terms and Conditions;
- 3.0 Statement or Scope of Work;
- 4.0 Specifications;
- 5.0 Attachments;
- 6.0 Exhibits;
- 7.0 Documents referenced or included in the Solicitation.

2.4 Relationship of Parties

The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

2.5 Severability

The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.

2.6 No Parole Evidence

This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

2.7 No Waiver

Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

2.8 Public Records

The Procurement Department shall establish and ensure that all documentation produced, received, and sent to any parties regarding day-to-day operations is filed and retained in accordance with the State of Arizona Department of Library, Archives and Public Records guidelines and all applicable Arizona State statutes. Notwithstanding any other provision of the agreement, the parties understand that Cochise County is a public entity and, as such, is subject to Arizona's public records law, A.R.S. § 39-121 et. seq.

In any situation where the County may be awarded State or Federal funding, the guiding principles and policies of those organizations will be followed including any other sub-entity principles and policies, as applicable.

Defacing, changing, destroying or any other unauthorized alteration of contract file documentation shall result in administrative disciplinary action in accordance with Cochise County Public Policies and its sub-departments. No files or documentation shall be taken from the Procurement Department for any reason. Contract files will be made available to requesting parties after the submission of a Public Records Request

The County shall protect and hold confidential, upon a Vendor's request, any data which is considered to be proprietary or include trade secrets or personal identifiable information (PII) as determined, in writing, by the Procurement Department after it has evaluated the request from the vendor. The Vendor's request must be made at any point prior to the closing date of any solicitation.

2.9 Record Retention

Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the County at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

2.10 Audit

Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the County and, where applicable, the State of Arizona and the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.

2.11 Non-Discrimination

The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

2.12 Notices

Notices to the Contractor required by this Contract shall be made by the County to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the County required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Department employee and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.

2.13 Federal Immigration and Nationality Act

The Contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the Contract. Further, the Contractor shall flow down this requirement to all subcontractors utilized during the term of the Contract. The County shall retain the right to perform random audits of Contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the County determine that the Contractor and/or any subcontractors be found noncompliant, the County may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the contract for default and suspension and/or debarment of the Contractor.

2.14 Advertising, Publishing and Promotion of Contract

The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Department.

2.15 Property of the County

Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the County. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the County.

2.16 Modifications

This Contract is issued under the authority of the Procurement Department, delegated by the Board of Supervisors. The Contract may be modified only through a Contract amendment or modifications within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the Board of Supervisors, County Administrator, or Procurement Department in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law.

Such changes, including unauthorized written Contract amendments or modifications shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

2.17 Contractor/Vendor Indemnification (Not Public Agency)

The parties to this contract agree that the County, its departments, agencies, and Board of Supervisors shall be indemnified and held harmless by the Contractor for the vicarious liability of the County and/or State as a result of entering into this Contract. However, the parties further agree that the County, its departments, agencies, and Board of Supervisors shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.

2.18 Public Agency Language Only

Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers.

2.19 Indemnification - Patent and Copyright

The Contractor shall indemnify and hold harmless the County against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the County of materials furnished or work performed under this Contract. The County shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not apply.

2.20 Cancellation for Conflict of Interest

Pursuant to A.R.S. § 38-511, the County may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the County is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511. Upon signing of the Contract, the Contractor agrees to the provision, and their understanding as if it were included within the Contract.

2.21 Gratuities

The County may, by written notice, terminate this Contract, in whole or in part, if the County determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the County for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The County, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

2.22 Termination for Convenience

The County reserves the right to terminate the Contract, in whole or in part at any time when in the best interest of the County, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the County. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the County upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.

2.23 Termination for Default

In addition to the rights reserved in the contract, the County may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Department shall provide written notice of the termination and the reasons for it to the Contractor.

Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the County on demand.

The County may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the County for any excess costs incurred by the County in procuring materials or services in substitution for those due from the Contractor.

2.24 Continuation of Performance Through Termination

The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

2.25 Non-Appropriation

The County may terminate any resulting contract at the end of any fiscal year, June 30th, without further liability other than payment of debt incurred during such fiscal year, should funds not be appropriated by its governing body to continue service for which the contract was intended.

2.26 Preparation of Specifications by Persons Other than County Personnel

All specifications shall seek to promote overall economy for the purposes intended and encourage competition and not be unduly restrictive in satisfying the County's needs in accordance with A.R.S. Chapter 23, Article 4. No person preparing specifications shall receive any direct or indirect benefit from the utilization of specifications, other than fees paid for the preparation of specifications.

3.0 Contract Performance

3.1 Delivery

Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.

3.2 E-Verify Requirements

In accordance with A.R.S. § 41-4401, the Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A.

3.3 Ownership of Intellectual Property

Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract (“Intellectual Property”), shall be work made for hire and the County shall be considered the creator of such Intellectual Property. The agency, department, division, or Board of Supervisors of the County requesting the issuance of this contract shall own (for and on behalf of the County) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the County, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the County and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the County. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity that is not the County without the express written authorization of the agency, department, division, or Board of Supervisors of the County requesting the issuance of this contract.

3.4 Facilities Inspection and Materials Testing

The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor’s processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The County shall also have the right to test, at its own cost, the materials to be supplied under this Contract.

Neither inspection of the Contractor’s facilities nor materials testing shall constitute final acceptance of the materials or services. If the County determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the County for testing and inspection.

3.5 Subcontracts

The Contractor shall not enter into a subcontract with any other party to furnish any of the material, service or construction specified herein without the advance written approval of the County. All subcontracts shall comply with Federal and State Laws and Regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the sub-consultant were the Contractor referred to herein. The Contractor is responsible for Contract performance whether or not sub-consultants are used. The County shall not unreasonably withhold approval and shall notify the Contractor of the County’s position within 15 days of receipt of written notice by the Contractor.

3.6 Assignment - Delegation

The Contractor, without prior written permission of the County shall assign no right or interest in this Contract, and no delegation of any duty of the Contractor shall be made without prior written permission of the County. The County shall not unreasonably withhold approval and shall notify the Contractor of the County’s position within 15 days of receipt of written notice by the Contractor.

3.7 Risk of Loss

The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

3.8 Liens

The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.

3.9 Quality

Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the County of the services or materials, they shall be:

- Of a quality to pass without objection in the trade under the Contract description;
- Fit for the intended purposes for which the materials are used;
- Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;
- Adequately contained, packaged and marked as the Contract may require; and
- Conform to the written promises or affirmations of fact made by the Contractor.

3.10 Fitness

The Contractor warrants that any material supplied to the County shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.

3.11 Nonconforming Tender

Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the County may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

3.12 Inspection/Testing

Any warranties set forth in in this Contract are not affected by inspection or testing of or payment for the materials by the County.

3.13 Compliance with Applicable Laws

The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

3.14 Purchase Orders

The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the County prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Department, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

3.15 Right to Assurance

If the County, in good faith, has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the County's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

3.16 Stop Work Order

The County may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the County after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Department shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

3.17 Warranties

Contractor warrants that all material, service or construction delivered under this Contract shall conform to the specifications of this Contract. Mere receipt of shipment of the material, service, or construction specified and any inspection incidental thereto by the County shall not alter or affect the obligations of the Contractor or the rights of the County under the foregoing warranties. Additional warranty requirement may be set forth in this document.

3.18 Licenses

Vendors shall maintain, in current status, all Federal, State, and Local licenses and permits required for the operation of the business conducted by the vendor as applicable to the Contract.

4.0 Legal

4.1 Force Majeure

Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

Force Majeure shall not include the following occurrences:

- Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;
- Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or
- Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract amendment or modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

4.2 Antitrust Violations

The Contractor assigns to the County any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

The County maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the County any and all claims for such overcharges as to the goods or services used to fulfill the Contract.

4.3 Non-exclusive Remedies

The rights and the remedies of the County under this Contract are not exclusive.

4.4 Suspension or Debarment

The County may, by written notice to the Contractor, immediately terminate this Contract if the County determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the County.

4.5 Contract Claims

All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.

4.6 Arbitration

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes (Title 41).

4.7 Non-Collusion

Firms submitting proposals shall warrant that their offer is made without any previous understanding, agreement or connection with any person, firm or corporation submitting a separate proposal for the same project and is in all respects fair, without outside control, collusion, fraud or otherwise illegal action. This condition shall not apply to proposals which are submitted by firms who have partnered with others to submit a cooperative proposal that clearly identifies a primary Consultant and the associated sub-consultant(s).

4.8 Protests and Appeals

In accordance with Section 15 of the Cochise County Procurement Policy Manual, any actual or prospective Contractor or offeror who is aggrieved in connection with the solicitation or award of a contract may appeal to the Procurement Director. The protest shall be submitted in writing to the Procurement Director within five (5) working days after such aggrieved person or company knows, or should have known, of the facts giving rise thereto.

4.9 Contract

The Contract shall be based upon the solicitation issued by the County and bid/offer submitted by the Contractor in response to the solicitation. The bid/offer shall substantially conform to the terms; conditions and other requirements set for with the rest of the solicitation, the contract, and any attachments to either document. The County reserves the right to clarify any contractual terms with the concurrence of the Contractor. However, any substantial non-conformity in the bid/offer shall be deemed non-responsive and the offer rejected. The Contract shall contain the entire agreement between the County and the Contractor relating to this requirement and shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders or master agreements in any form.

4.10 Legal Remedies

If the Contractor and the County are unable to mutually resolve disputes arising under this contract, all disputes arising under or relating to this Contract shall be settled by binding Arbitration. Any decision or award as a result of any such arbitration proceeding shall be in writing and shall provide an explanation for all conclusions of law and fact and shall include the assessment of costs, expenses, and reasonable attorneys' fees. Any such Arbitration shall be conducted by an experienced and knowledgeable Arbitrator(s) and shall include a written record of the Arbitration hearing. If the Contractor and Cochise County can mutually agree upon an Arbitrator, that Arbitrator shall be selected. If not, the Contractor and Cochise County shall each select an Arbitrator and those two Arbitrators shall select a third Arbitrator (or the Contractor and Cochise County shall request a third Arbitrator from the Arizona Arbitration Association). All Arbitrations will be held in the State of Arizona and under the Arizona Rules of Arbitration. All claims and controversies shall be subject to A.R.S. § 12-1518 et. seq.

4.11 Rights and Remedies

No provision in this document or in the Contractor's offer shall be construed, expressly or by implication as a waiver by either party of any existing or future right and/or remedy available by law in the event of any claim of default or breach of Contract. The failure of either party to insist upon the strict performance of any term or condition of the Contract or to exercise or delay the exercise of any right or remedy provided in the Contract, or by law, or the acceptance of materials or services, or the payment for materials or services, shall not release either party from any responsibilities or obligations imposed by this Contract or by law, and shall not be deemed a waiver of any right of either party to insist upon the strict performance of the Contract.



**COCHISE COUNTY
PROCUREMENT DEPARTMENT**

1415 Melody Lane, Building C, Bisbee, AZ 85603
Phone: (520) 432-8391 Fax: (520) 432-8397

**Indigent Defense Coordinator (IDC)
Contract Attorney Services**

PSA 14-03-IDC-01-[alphabetical placeholder per contracted attorney]

**Attachment 2 to RFQ 14-03-IDC-01
Sample Agreement**

THIS AGREEMENT (the "Agreement") is made this **DATE** between **ATTORNEY NAME, ADDRESS** an attorney licensed with the State Bar of Arizona, and the attorney's law firm are hereinafter jointly referred to as ("Attorney"), and Cochise County, a political subdivision of the State of Arizona, through the Indigent Defense Coordinator, 1415 Melody Lane, Bisbee, AZ 85603 (hereinafter the "County").

Recitals:

- A.** The County provides counsel for indigent juveniles and adults in delinquency, incorrigibility, criminal, and dependency cases;
- B.** The Cochise County Public and Legal Defender Offices sometimes have conflicts of interest or for other reasons are unable to represent indigent clients in these kinds of cases;
- C.** The County desires to engage private counsel for indigent persons ("Clients") when the County Public and Legal Defender Offices have a conflict or for other reasons are unable to represent them;
- D.** The County desires the services of the Attorney as counsel for Clients in the classes of cases specified in this Agreement;
- E.** The County is authorized to procure the professional services of the Attorney as an independent contractor under A.R.S. §§ 11-201, 11-251 and 11-254.01 for these matters.

NOW THEREFORE, in consideration of their mutual promises set out herein, the Attorney and the County agree as follows:

1.0 Scope of Work and Compensation

The Attorney shall provide legal services for Clients in the following classes of cases as assigned by the Indigent Defense Coordinator (hereinafter the “IDC”):

ENTER CASE TYPE(S)

- Class 1 felony cases and Class 2 felony cases listed in A.R.S. § 13-706 as “serious offenses” or “violent or aggravated felonies.”
- Class 6 through Class 2 felony cases (other than those listed above).
- Delinquency and incorrigibility cases.
- Misdemeanor cases.

1.2 The compensation for each class of cases, including the timing of payment, is set forth on Exhibit A hereto. Each felony, probation revocation and misdemeanor case assigned to the Attorney shall be compensated as a separate case. A case that is resolved through a deferred prosecution agreement shall be deemed concluded for purposes of this Agreement. If prosecution is resumed for failure to comply, the resumed prosecution shall be deemed a separate case provided the attorney withdrew at the time of the suspended or deferred prosecution order. If prosecution is resumed and the attorney did not withdraw, a new assignment will not be made and no additional payment will be made. For juvenile delinquency cases, each new petition or petition to revoke probation is considered a separate case. For dependency cases, the date the original petition was filed will determine whether the case is a “1st Year” case or a “2+ Year” case. Supplemental dependency petitions are not considered separate matters with respect to pre-existing parties and will not be paid as a new assignment. If the Attorney is assigned a dependency case, which subsequently develops into a severance case, the severance case will be treated and compensated separately. However, the following shall not count as cases:

1.2.1 Felony cases dismissed due to no complaint being filed nor an indictment returned. Attorney shall be paid at the rate of \$50.00 per hour, not to exceed \$200.00, for such cases. Attorney must submit an itemized billing statement to IDC for these cases within 60 days of the dismissal.

1.2.2 Any case in which Attorney withdraws due to a conflict or other reason, is relieved by the Court, or if the client retains private counsel. Attorney shall be paid at the rate of \$50.00 per hour, not to exceed the base amount paid for that case type. Attorney must submit an itemized billing statement to IDC within 60 days of the withdrawal. If an Attorney has been paid for a dependency case and, subsequently must withdraw or is relieved of further representation by the Court prior to the end of the case, the Attorney will only be entitled to \$50.00 per hour for work performed on that case and must reimburse the County for any amount over that. The County may offset any amount needed to be reimbursed from any future payment owed to Attorney.

- 1.2.3 Juvenile delinquency cases in which the Attorney is assigned as Guardian Ad Litem or assigned to represent parents in Order to Show Cause proceedings. Attorney shall be paid at the rate of \$50.00 per hour for such cases. In the event that a Guardian Ad Litem assigned in a delinquency matter determines that it is appropriate to file a petition to initiate dependency proceedings, Attorney will be paid according to the Dependency fee schedule for work performed after the dependency petition is filed.
- 1.3** In the event that a client fails to appear for a court proceeding and the court issues a bench warrant for the arrest of the client, the Attorney shall move to withdraw from the case within 60 days of the issuance of the bench warrant. Upon withdrawal, Attorney will be paid at the rate of \$50.00 per hour, not to exceed the base amount paid for that case type. If the client is later arrested on a bench warrant, the case will not be counted as an additional case. If reappointed, the Attorney will receive the base amount for that case type minus any prior payment. Attorney must submit a final itemized billing statement to IDC within 30 days of the disposition of the case.
- 1.4** Assignments of cases to the Attorney and other independent contract attorneys shall be made at the sole discretion of the IDC.
- 1.5** For Attorneys deemed eligible for, or are associated with representing a dependency case, an affidavit shall be submitted by the contracted attorney to the County Procurement Department and the presiding judge no later than the 15th of September annually, as required by 17B A.R.S. Juv. Ct. Rules of Proc, Rules 40.1 and 40.2. Contracted attorneys who do not file the required affidavit with both County parties will be subject to withholding of payment for any invoicing until the necessary files are submitted and filed. The County will not arbitrarily withhold payment, without sound reasoning, after affidavits are submitted.
- 1.6 Protracted and Complex Cases**
Attorney may apply to the IDC for additional fees if, in the judgment of the Attorney, an assigned case requires more than the base level of service anticipated by this Agreement because of the complex or protracted nature of the case. Such additional fees may be a fixed amount or an hourly rate. For felony cases listed in A.R.S. § 13-706 as “serious offenses” or “violent or aggravated felonies”, Attorney may apply to the IDC for an hourly rate of no more than **\$75.00** per hour. All requests for additional compensation shall be submitted in writing to the IDC for approval. If the IDC is unable to approve a request, the IDC will submit the request to the Superior Court Presiding Judge, the Presiding Judge’s designee or the appropriate court for approval. The determination whether a case warrants additional fees and, if so, the amount or rate, shall be determined by the IDC, subject to review as set forth in Paragraph 22 of this Agreement. All requests shall include the following:
1. The total amount of additional fees and/or hourly rate requested.
 2. A specific explanation of the circumstances affecting the length and/or complexity of the case.
 3. An itemized listing of the services provided up to the date of the request showing the amount of time spent on each item.

- 1.7** If approved for an hourly rate, Attorney must submit monthly itemized billing statements that contain the date of service, a brief description of the service and the actual time spent, billed in one-tenth (1/10) of an hour increments. Monthly billing statements shall be submitted no later than the 15th day of the month following the provision of the service.
- 1.8** In all cases, Attorney shall not be compensated for any work performed by Attorney of a non-legal nature that would ordinarily be performed by support personnel, including secretarial and clerical support work involved in opening and closing files, administrative communications with IDC, preparing and transmitting documents, copying, and organizing, filing or similar functions.
- 1.9** The Attorney shall represent Clients from the date of assignment, through trial and sentencing, or other resolution of the case, including, but not limited to, a plea agreement and sentencing pursuant to such agreement, restitution hearing post-sentencing, dismissal, and deferred prosecution or through fulfillment of terms of a cooperation/witness agreement with the State. If a criminal case proceeds to trial and results in a conviction, the Attorney is responsible for preparation of and filing a Notice of Appeal. If a case is resolved pursuant to a deferred prosecution agreement, the Attorney may withdraw from the case at that time. If a Client reaches an agreement with the State to resolve a matter and it requires the Client to testify against another party, work as an informant or otherwise cooperate with the State, the Attorney shall remain attorney of record until the Client fulfills these obligations. In appropriate circumstances, the Attorney may also file a Notice of Post-Conviction Relief or provide Clients with the forms to file it. In a delinquency case, the Attorney shall represent the Client from the date of assignment through disposition. In a dependency case, the Attorney shall represent the Client until a final order is entered. Generally, assignment of Justice Court and Superior Court cases does not include responsibility for post-trial appeals, post-adjudication appeals, or Rule 32 petitions, which will be assigned and compensated separately.
- 1.10** If the Attorney is a member of a law firm, the attorney may assign a case to any attorney within the law firm who has been approved by the County to handle such cases.
- 1.10** Attorney shall provide competent, effective, and timely legal assistance and representation and shall perform the work in accordance with the terms of the Agreement to the best of Attorney's ability. The Attorney represents that he/she is qualified to act as counsel in the cases he/she has agreed to accept pursuant to this Agreement, and meets the minimum qualifications for such cases as set forth on Exhibit B.
- 1.11** The Attorney shall maintain contact with Clients and keep them informed until the case is terminated. The Attorney shall also use reasonable diligence in notifying Clients of necessary court appearances, as well as court action resulting from their clients' non-appearance.
- 1.12** The Attorney shall comply with the Arizona Supreme Court Rules of Professional Conduct, the Arizona Supreme Court rulings on the standards for effective assistance of counsel as set forth in *State v. Smith*, 140 Ariz. 355 (1984) and *Zarabia v. Bradshaw*, 185 Ariz. 1 (1996), state and local court rules, all applicable local, state and federal laws, statutes, ordinances, rules and regulations and the written administrative policies and procedures established by the Court or the IDC.

- 1.13** If the Attorney uses any employees to perform these services, said employees shall be suitably trained and skilled and the Attorneys shall supervise their work in accordance with the standards of the profession and the Rules of the Court.
- 1.14** The Attorney shall not accept a fee or other compensation for services rendered other than as stated in this Agreement. However, the County understands and agrees that the Attorney may represent private clients not covered by this Agreement.
- 1.15** The Attorney should be mindful of Rule 6.4 of the Arizona Rules of Criminal Procedure regarding indigence and make appropriate requests to the Court for re-determination of indigence for Clients.
- 1.16** Once Attorney is assigned a case, the Attorney's duty to represent Clients shall survive expiration of this Agreement. Should the Attorney be unable or unwilling to continue representation due to a conflict or otherwise, the Attorney shall file a motion to withdraw with an order referring the case back to the IDC for reassignment of counsel.
- 1.17** The Attorney, on occasion, may have another attorney appear as substitute counsel due to being reasonably unavailable.
- 1.18** The Attorney is not entitled to reimbursement for work performed after completion of representation, as set forth in the Agreement, unless the IDC expressly authorizes it in writing.
- 1.19** Attorney acknowledges and agrees that pursuant to A.R.S. § 11-622(C) the County shall not pay any claim unless a demand is made within six months after the last item of account accrues. This applies to claims for compensation and extraordinary expense (see below) pursuant to this Agreement.
- 1.20** Attorney acknowledges that Cochise County operates on a fiscal year that begins each July 1st and ends each June 30th of the following year. All claims for work performed through June 30th of each fiscal year must be submitted to IDC no later than August 15 following the end of the fiscal year on June 30th. Claims submitted after this date shall not be paid.

2.0 Expenses

- 2.1 Routine Expenses.** The Attorney agrees that routine or ordinary expenses involved in the representation of Clients are not reimbursable, but instead are included in the compensation pursuant to this Agreement. These expenses include, but are not limited to in-office copying, postage, telephone, facsimiles, computer, computerized legal research (i.e. Westlaw, Lexis and Loislaw), office supplies, secretarial and paralegal services, and travel within the County.
- 2.2 Extraordinary Expenses.** The County shall pay the Attorney, in addition to the fees provided in this Agreement, Extraordinary Expenses. These include, but are not limited to, the costs of expert witnesses, investigators, extraordinary travel, transcripts for trial court purposes, including interview and deposition transcripts, translation and/or interpretation expenses, clothing for defendant at trial, subpoena fees (if a Civil Division of a Sheriff's Department or Constable is unavailable to serve the subpoenas) and any other costs associated with representation in cases that are the subject of this Agreement pursuant to A.R.S. § 13-4013 and within County guidelines and rates.

2.3 The Attorney shall obtain prior written approval of the IDC before incurring any such Extraordinary Expenses, subject to review as set forth in Paragraph 22 of this Agreement. All subcontractors for these expenses shall submit their bills to the Attorney, who shall review the bills, certify that they are reasonable and were incurred in the course of representation for an assigned case, then forward them to the IDC for payment. Subcontractor bills shall be reimbursed "at cost". Jury lists and transcripts for appeals and Rule 32 cases shall be obtained in the manner prescribed by the Arizona Rules of Criminal Procedure. Payments for authorized expenses incurred by a subcontractor will be made directly to the subcontractor, with notice to the Attorney that the expenses have been paid.

2.4 Travel Expenses. The County shall pay Attorney for mileage at the then current IRS rate only for out-of-County travel reasonably necessary in order to provide representation in an assigned case. The Attorney must obtain prior approval from IDC before incurring out-of-County travel expenses, subject to review as set forth in Paragraph 22 of this Agreement. Out-of-County travel does not include travel to Cochise County by an Attorney who resides in another county.

The County shall pay Attorney for mileage at the then current IRS rate for in-County travel reasonably necessary to provide representation in assigned **felony cases only**.

2.5 Interpretation. The Court Administrator is responsible for providing qualified interpreters for non-English speaking clients for all in-court proceedings.

3.0 Term of Agreement

The initial term of this Agreement shall be for one-year term with the option to extend on a year-to-year basis at the County's discretion. The County shall mail out its proposal to extend the contract for an additional year to the Attorney within 30 days of the expiration date.

4.0 Termination

Either party may terminate this Agreement at any time with or without cause; provided, however, that if the Attorney terminates the Agreement the Attorney will be responsible for the cost of reassigning the cases previously assigned to the Attorney, but if the County terminates the Agreement without cause the County will be responsible for such costs and must compensate the Attorney for time reasonably spent on assigned cases.

Should any party terminate this Agreement, the Attorney shall reimburse the County for any advanced payments that the Attorney has not earned within thirty (30) days from the date the Attorney is notified by the County of the overpayment. Should the Attorney fail to reimburse the County within the thirty (30) day period, such failure will constitute a breach of this Agreement. The Attorney and Law Firm shall be held jointly and severally liable for any damage award in favor of the County. If the County files a legal action due to Plaintiff's failure to reimburse the County, Plaintiff shall pay all costs and attorney's fees incurred by the County if the Court enters judgment in favor of the County.

5.0 Attorney's Status

5.1 The Attorney is an independent contractor. The Attorney is not an officer, agent, servant, or employee of the County. The Attorney shall be solely responsible for the acts and omissions of his/her officers, agents, servants, and employees. The Attorney is responsible for providing all workers' compensation insurance required by law.

5.2 The professional duty of the Attorney is the representation of Clients assigned under this Agreement. Neither the County nor the IDC may exercise any control over the professional judgment of the Attorney with regard to assigned cases.

6.0 Amendment and Entirety of Contract

This document constitutes the entire Agreement between the parties with respect to the subject matter hereto and shall supersede all previous proposals, both oral and written, negotiations, representations, commitments, writings, agreements and other communications between the parties. It may not be changed or modified except by an instrument in writing signed by a duly authorized representative of each party.

7.0 Records

7.1 The Attorney shall submit all reports and invoices specified in this Agreement.

7.2 The Attorney shall preserve and make available all records for a period of five (5) years from the date of final payment under this Agreement and for such period as is required by any other paragraph of this Agreement including the following:

- A. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for such a period of five (5) years from the date of any such termination;
- B. Records which relate to disputes, litigations or the settlement of claims arising out of the performance of this Agreement or to costs and expenses of this Agreement to which exception has been taken by the County shall be retained by the Attorney until such appeals, litigations, claims or exceptions have been fully resolved.
- C. If any litigation, claim or audit is started before the expiration of the five-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.
- D. Records shall also be kept and made available in accordance with the Arizona Supreme Court Rules of Professional Conduct.

8.0 Approval by the County

Before this Agreement shall become effective and binding upon the County, it must be approved by the Procurement Director. In the event that the Procurement Director does not approve this Agreement it shall be null and void and of no effect whatsoever.

9.0 Waiver

The failure of either party at any time to require performance by the other party of any provisions hereof shall in no way affect the party's subsequent rights and obligations under that provision. Waiver by either party of the breach of any provision hereof shall not be taken or held to be a waiver of any succeeding breach of such provision or as waiver of such provision itself.

10.0 No Assignment or Sub-Contracting

This Agreement is non-assignable and the contract services with the Attorney cannot be sub contracted to a third party. Any attempt to assign or subcontract any of the rights, duties or obligations of this Agreement shall be void.

11.0 Cancellation of Agreement

Pursuant to A.R.S. §38-511, the provisions of which are incorporated herein by reference, all parties are hereby put on notice that this Agreement is subject to cancellation by the County or its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of the County or its departments or agencies is, at any time while the Agreement or any extension of the Agreement is in effect, an employee or agent of any other party to the Agreement in any capacity or a consultant to any other party of the Agreement with respect to the subject matter of the Agreement.

12.0 Non-discrimination

The Attorney shall comply with Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1975 and Federal Executive Order No. 11246, State Executive Order No. 75-5 and A.R.S. §41-1461 et. seq., which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation, shall have access to employment opportunities. The Attorney shall comply with Section 503 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination in the employment or advancement in employment of qualified persons because of physical or mental handicap. The Attorney shall comply with Title 6 of the Civil Rights Act of 1964, as amended, which prohibits the denial of benefits or participation in contract services on the basis of race, color, or national origin. The Attorney shall comply with the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap in delivering contract services.

13.0 Indemnification

The Attorney shall at all times indemnify, defend and hold harmless the County and/or any of its agents, officials and employees from any and all claims, demands, suits, actions, proceedings, laws, costs and/or damages of every kind and description including any attorney's fees and/or litigation expenses which may be brought or made against or incurred by the County on account of loss of or damage to any property or for injuries to or death of any person, caused by, arising out of, or contributed to, in whole or in part, by reason of any alleged act, omission, professional error, fault, mistake, or negligence of the Attorney, its employees, agents, representatives, or subcontractors, their employees, agents, or representatives in connection with or incidental to the performance of this Agreement or arising out of Workers' Compensation claims, Unemployment Compensation claims, or Unemployment Disability Compensation claims of employees of the Attorney and/or its subcontractors or claims under similar such laws or obligations. The Attorney's obligations under this paragraph shall not extend to any liability caused by the sole negligence of the County or its employees.

14.0 Notice to Attorney Regarding Tax Duties and Liabilities

The Attorney is responsible for paying, according to law, Attorney's income and self-employment taxes. The County will not withhold any such taxes.

15.0 No Authority to Bind County

The Attorney has no authority to enter into contracts or agreements on behalf of the County. This Agreement does not create a partnership between the parties.

16.0 Declaration by Attorney

The Attorney declares that he/she has complied with all federal, state and local laws regarding business permits, certificates and licenses that may be required to carry out the work to be performed under this Agreement.

17.0 Notice

Any notice given in connection with this Agreement shall be given in writing and shall be delivered either by hand to the party or by certified mail return receipt requested to the party's place of business.

18.0 Choice of Law

Any dispute under this Agreement or related to this Agreement shall be decided in accordance with the laws of the State of Arizona.

19.0 Severability

If any part of this Agreement shall be held unenforceable, the rest of the Agreement will nevertheless remain in full force and effect.

20.0 Insurance

- A. Attorney agrees as a material condition of this Agreement that each shall provide and maintain professional liability insurance in the minimum amount of \$100,000.00 per claim, \$300,000.00 annual aggregate.
- B. The Attorney shall provide the IDC with current certificates of insurance (valid ACORD form or equivalent approved by the County) evidencing that Attorney has insurance as required by the Contract.
- C. Failure on the part of the Attorney to procure and maintain current liability insurance and provide proof thereof to the County shall constitute a material breach of the Agreement upon which the County may immediately terminate the Agreement.

21.0 Licensing and Education

21.1 The Attorneys, and each of them, warrants that each is licensed to practice law in the State of Arizona, in good standing with the Arizona State Bar and is competent to handle all matters contemplated by this Agreement in a prompt and professional manner on behalf of their clients.

21.2 Suspension or disbarment of Attorneys from the practice of law during the term of this Agreement shall constitute a material breach of contract, entitling County to terminate this Agreement immediately with or without notice.

22.0 Review of Determinations by IDC

Any determination made by IDC pursuant to this Agreement, if disputed by Attorney, will be subject to review by the Presiding Judge of Superior Court or a person designated by the Presiding Judge. The IDC, with approval by the Presiding Judge, will establish the procedure for review, including any forms for requesting review.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the dates indicated.

ATTORNEY

COUNTY PROCUREMENT

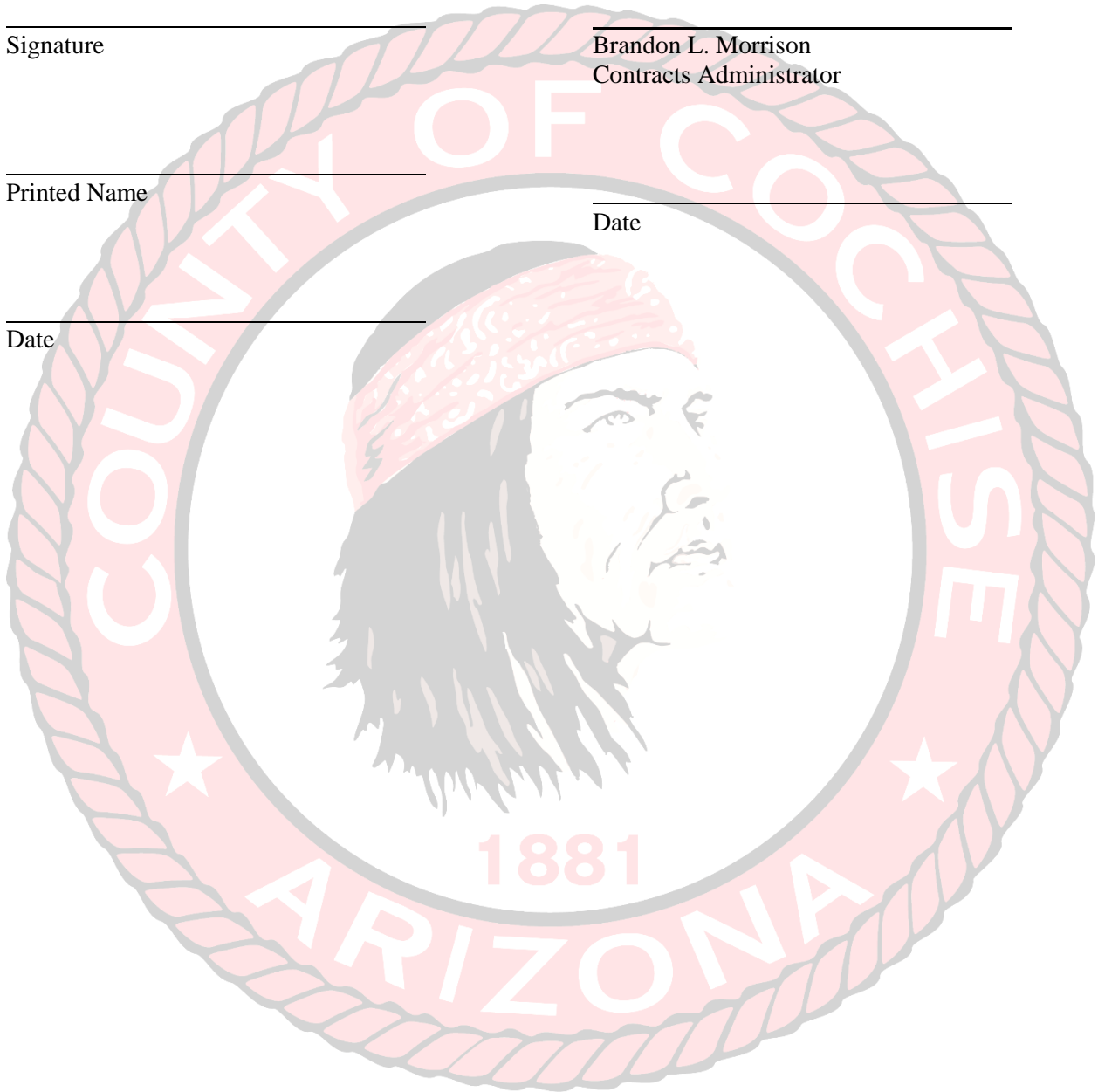
Signature

Brandon L. Morrison
Contracts Administrator

Printed Name

Date

Date





**COCHISE COUNTY
PROCUREMENT DEPARTMENT**

1415 Melody Lane, Building C, Bisbee, AZ 85603
Phone: (520) 432-8391 Fax: (520) 432-8397

**Indigent Defense Coordinator (IDC)
Contract Attorney Services**

PSA 14-03-IDC-01-[placeholder per contracted attorney]

Exhibit A – Compensation Schedule

FELONY	
Felony (Class 1)	\$75/hour
Felony (Class 2 - 6)	\$900/case for up to 25 hours of work; \$60/hour for over 25 hours of work
ERC Felony (Class 2 – 6)	\$400/case for up to 6 hours of work; \$60/hour for over 6 hours' work, not to exceed \$900
PROBATION VIOLATION	\$400 per case
MIDEMEANOR	\$200 per case
APPEAL	\$50/hour
RULE 32 POST-CONVICTION RELIEF	\$50/hour
JUVENILE DELINQUENCY	
Attorney for Juvenile	\$350 per petition
Guardian Ad Litem for Juvenile	\$50 per hour
Attorney for Parent(s) in OSC Proceeding	\$50 per hour
JUVENILE DEPENDENCY	
	1st year: \$1200/case
	2+ years: \$500/year
	Severance: \$500/case
PSYCHIATRIC SECURITY REVIEW BOARD	\$50 per hour

*Unless pursuant to Paragraph 1.E of the Agreement attorney applies to IDC and IDC approves additional fees.

Payment for cases approved for an hourly rate will be made monthly. Attorney shall submit monthly itemized billing in the manner prescribed by IDC no later than the 15th day of each following month.

Payment for felony, probation violation, misdemeanor and juvenile delinquency cases will be made upon completion of the case. Attorney shall submit a payment request to IDC no later than sixty (60) days after the case is completed.

Payment for juvenile dependency cases will be made at the time of assignment for the first year of the case. Payment for subsequent years of representation will be made on the anniversary of the initial assignment. Attorney shall submit a payment request to IDC no later than sixty (60) days from the date of assignment or anniversary date.

All payment requests shall be submitted in accordance with IDC procedures.



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PROCUREMENT DEPARTMENT**

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**Indigent Defense Coordinator (IDC)
Contract Attorney Services**

PSA 14-03-IDC-01-[placeholder per contracted attorney]

Exhibit B – Minimum Qualifications

Attorney shall be an active member in good standing of the State Bar Association of Arizona. Attorney shall meet the following qualifications for each case type assigned:

Serious Offenses or Violent or Aggravated Felonies as Listed in A.R.S. § 13-706 – experienced and active in criminal law with not less than five (5) years criminal litigation experience; at least five (5) jury trials of serious complex cases tried to completion

Felony Cases – experienced and active in criminal law with not less than three (3) years criminal litigation experience; and lead or co-counsel in at least three (3) jury trials to verdict of any class of felony

Appeals and Rule 32 Cases – experienced in criminal law with not less than three (3) years criminal litigation or criminal appellate/post-conviction experience

Misdemeanor Cases – experienced and active in criminal law with not less than one (1) year criminal experience

Delinquency Cases – not less than three (3) years' experience in criminal law and/or juvenile law, familiar with dispositional alternatives, services available through the Court, DCS and community agencies

Dependency and Severance Cases – some experience with child welfare system, family law, mental health and/or guardianships, familiar with services available in the areas of mental health, substance abuse, domestic violence, education, job/vocation training; attorneys representing children must meet the requirements set out in Rule 40.1 and Rule 40.2, Juvenile Court Rules of Procedure

Attachment 3 to RFQ 14-03-IDC-01
RFQ Questionnaire

Applicants must answer all questions (typed or legibly written). Each individual seeking appointment must fill out an application. Applicant must submit two writing samples of either a motion, legal memorandum, or brief recently filed in a case in which you were/are attorney of record. Any additional information you would like to be considered may be attached.

1. Type of case appointments sought (check all that apply):

Class 1 felony cases and Class 2 felony cases listed in A.R.S. § 13-706 as “serious offenses” or “violent or aggravated felonies”

Class 6 through Class 2 felony cases other than those listed in A.R.S. § 13-706 as “serious offenses” or “violent or aggravated felonies”

Misdemeanor cases

Juvenile delinquency and incorrigibility cases

Dependency and severance cases

2. Name of Attorney: _____

3. Office Address: _____

4. Mailing Address (if different from above): _____

5. Email: _____

6. Phone: _____

Office: _____

Cell: _____

Fax: _____

7. Firm:

a. Name: _____

b. Type of Entity:

Sole Proprietorship

Limited Liability Company

Corporation

General Partnership

Limited Liability Partnership

c. Other Lawyers in Firm: _____

8. Member of State Bar of Arizona in Good Standing: Yes No
9. State Bar of Arizona Admission Date: _____
10. Other Bar Memberships and dates: _____
11. Has the State Bar of Arizona or any other bar or disciplinary authority ever filed a formal charge against you or made a finding of probable cause that you violated a professional obligation?
- No
- Yes (Please attach a complete explanation, including dates, the nature of the charge, and the result of the proceeding.)
12. Has a court ever found that you failed to provide effective representation to a criminal defendant?
- No
- Yes (Please attach a complete explanation.)
13. Have you ever been sued for malpractice?
- No
- Yes (Please attach a complete explanation.)
14. Has a court ever sanctioned you for misconduct, contempt of court, disclosure/discovery violations, etc.?
- No
- Yes (Please attach a complete explanation.)
15. Have you ever been charged or convicted of a criminal offense?
- No
- Yes (Please attach a complete explanation.)
16. Experience (you are encouraged to attach a resume to supplement the below information):
- a. Years Practicing Law (including any judicial clerkships), Total: _____
- b. Years of Criminal Defense/Prosecution Practice: _____
- c. Years of Juvenile Law Practice: _____
- d. Number of Appellate Cases Handled: _____

17. Indicate the percentage of your practice devoted to the following areas:

- a. Criminal Defense _____
- b. Juvenile Law _____
- c. Family Law _____
- d. Other (please specify) _____

18. Indicate any current contract for representation of indigent clients in any state, local or federal court, including case type:

19. Indicate any language in which you are fluent, other than English: _____

20. Malpractice Insurance (attach a certificate of insurance):

a. Malpractice Carrier: _____

b. Coverage Limits: _____

By signing below, I swear or affirm that (1) all the information in this application and any papers attached and incorporated into it are true, correct, and complete, to the best of my knowledge and belief; (2) I have read the standard Cochise County IDC contract agreement and IDC billing guidelines and I understand, and am able and prepared to comply with, all the obligations that will be imposed on me if I am awarded a contract; and (3) I will promptly notify Cochise County Procurement Department if any information in this application and any attachments becomes incorrect or incomplete.

Applicant's Signature

Date: _____