



**BANNOCK COUNTY
CONFLICT PUBLIC DEFENDER
STATEMENT OF QUALIFICATIONS REQUEST**

Bannock County Conflict Public Defender

Issue Date April 7, 2022

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1 Statement of Qualifications (SOQ) Request Administrative Information

SOQ Title:	Bannock County Conflict Public Defender
SOQ Project Description:	Bannock County invites qualified firms or individuals to submit written qualifications for consideration as a Conflict Public Defense Attorney. The County intends to award multiple contracts for Conflict Public Defenders and establish a candidate pool for future conflict cases.
SOQ Lead:	Shanda Crystal, Purchasing and Economic Analyst Bannock County 624 East Center, Room 101 Pocatello, ID 83201 shandac@bannockcounty.us 208-236-7214
Submit qualifications:	SOQ Lead – Shanda Crystal 624 East Center, Room 101 Pocatello, ID 83201 shandac@bannockcounty.us
Publish Notice on website:	April 7, 2022
SOQ Closing Date:	SOQs will be accepted on a continual basis
Contract Award Date (Anticipated):	Contract will be awarded as candidates are approved

2 OVERVIEW

2.1 Purpose

Bannock County invites qualified firms or individuals to submit written qualifications for consideration as a Conflict Public Defender. The contract will consist of cases conflicted out of the Bannock County Public Defender's Office. The attorneys selected will provide services as an independent contractor and is not being hired as a County employee. The County intends to award multiple contracts for Conflict Public Defenders and establish a candidate pool for future conflict cases.

2.2 Schedule

The County has an immediate need to recruit additional attorneys and/or firms that will provide indigent defense services. **As such, Statements of Qualifications will be accepted on a continual basis until the County achieves sufficient capacity to provide said services.** Interviews of selected candidates will, if required, be scheduled as soon as possible. Following the interview, multiple candidates may be selected to enter into contracts for provisions of services.

2.3 Questions

2.3.1 This Solicitation is issued by the Bannock County Commissioners. The SOQ Lead is the only contact for this Solicitation. All correspondence must be in writing. In the event that it becomes necessary to revise any part of this SOQ, addenda will be posted at <https://www.bannockcounty.us/notices/>. It is the responsibility of parties interested in this SOQ to monitor the website for any updates or amendments. Any oral interpretations or clarifications of this SOQ must not be relied upon. All changes to this SOQ will be in writing and must be posted to the website to be valid; alternate bids are not allowed. The SOQ Lead may send out any addenda to known SOQ holders.

2.3.2 Questions or other correspondence must be submitted in writing to the SOQ Lead listed below.

QUESTIONS MUST BE RECEIVED BY THE SOQ LEAD:

Shanda Crystal, Purchasing and Economic Analyst
Bannock County
624 East Center, Room 101
Pocatello, ID 83201
Fax: 208-236-7363
E-mail: shandac@bannockcounty.us

2.3.3 **Written questions must be submitted using Attachment 1, Offeror Questions.** Official answers to all written questions will be posted on the above website as an amendment to this SOQ.

2.3.4 Any questions regarding the proposed contract (Exhibit A) must also be submitted in writing, using **Attachment 1, Offeror Questions.** Bannock County will not consider proposed modifications to these requirements after the date and time set for receiving statements of qualifications. Questions regarding these requirements must contain the following:

1. The rationale for the specific requirement being unacceptable to the party submitting the question (define the deficiency).
 2. Recommended verbiage for the County's consideration that is consistent in content, context, and form with the County's requirement that is being questioned.
 3. Explanation of how the County's acceptance of the recommended verbiage is fair and equitable to both the County and to the party submitting the question.
- 2.3.5 Qualifications which condition the solicitation based upon the County accepting other terms and conditions not found in the SOQ, or which take exception to the County's terms and conditions, will be found non-responsive, and no further consideration of the Bid will be given.**

3 INSTRUCTIONS FOR QUALIFICATION SUBMISSION

3.1 Qualification Submission

Qualifications may be submitted manually, in person, by shipping service, or by e-mail to SOQ Lead as listed in the Administrative Information.

The solicitation must be addressed to the Bannock County Commissioners and identified as “**Bid Opening – Bannock County Conflict Public Defender.**”

3.2 Qualifications to be Included

Interested applicants should provided a resume, cover letter, solely authored writing sample, a list of the past two years CLE’s of other trainings that relate to criminal defense, names of judges and opposing counsel in the last three cases that went to trial and any other information the applicant feels demonstrates his/her ability to provide vigorous and effective representation to clients.

3.3 Additional Information

- a) The County will not be liable for any cost incurred in the preparation of qualifications.
- b) The submission of qualifications shall be prima facie evidence that the Proposer has full knowledge of the scope, nature, quantity and quality of work to be performed; the detailed requirements of the specifications; and the conditions under which the work will be performed.
- c) The Proposer shall furnish the County such additional information as the County may reasonably require.
- d) To contact references not provided in the SOQs.
- e) The County reserves the right to conduct personal interviews of any or all Proposers prior to selection. The County will not be liable for any costs incurred by the Proposer in connection with such interview (i.e., travel, accommodations, etc.).
- f) The County reserves the right to conduct pre-contract negotiations with any or all potential Proposers.
- g) The County reserves the right to reject any or all bids, the right of the County in its sole discretion to accept the bid(s) it considers most favorable to the County's interest and the right to waive minor irregularities in the procedures. The County further reserves the right to reject all bids and seek new bids when such procedure is reasonably in the best interest of the County.
- h) Certain financial information of the County, including financials and budgets, can be accessed at <https://www.bannockcounty.us/auditor/>.

3.4 Negotiations, discussions and best and final offers cannot be guaranteed to occur.

4 SCOPE OF WORK

Any individual attorney or law firm offering the services of one or more individual attorneys may respond, provided they meet the criteria below, as well as in Exhibit A 'Proposed Contract'. Law firms responding to this SOQ must identify all attorneys who may be assigned under this contract and provide their individual qualifications in accordance with this section. The attorneys selected to serve as Conflict Public Defender, if a law firm is selected, the primary attorney and every attorney in the firm who will be assigned to make any court appearances for the firm on behalf of an accused, must satisfy the following criteria:

- 1) Is an active member in good standing of the State Bar of Idaho and has been an active trial practitioner;
- 2) Has not previously been the subject of a state bar disciplinary action which led to the suspension or revocation of the attorney's license to practice law. If a proposed attorney has been disciplined by any state bar for any reason, the nature and reasons of the discipline must be disclosed in the SOQ;
- 3) Must be familiar with the practices and procedures of the Idaho criminal courts;
- 4) Has insurance coverage that meets the County's insurance requirements specified in the attached Contract, including but not limited to professional malpractice insurance;
- 5) Provides an office or other suitable place for meetings with clients that is in Bannock County or otherwise reasonably close to the Bannock County Courthouse so as to be reachable by clients without undue expense or difficulty;
- 6) Must possess the education and training requirements specified in Idaho Code and meet the continuing education requirements of that code; and
- 7) Possess skill and experience in the following areas:
 - a. Use of expert witnesses and evidence, including familiarity with common areas of psychiatric and forensic evidence and investigation, including fingerprints, ballistics, forensic pathology, and DNA evidence;
 - b. Management and conduct of complex negotiations and litigation;
 - c. Legal research, analysis, and the drafting of litigation documents;
 - d. Oral advocacy;
 - e. Investigation, preparation, and presentation of evidence bearing upon mental status;
 - f. Investigation, preparation, and presentation of mitigating evidence; and
 - g. Elements of trial advocacy, such as jury selection, cross-examination of witnesses, opening statements and closing arguments.

Please see the proposed Professional Services Contract and Retainer as Conflict Counsel for Indigent Persons attached as Exhibit A for the full scope of duties to be performed and the provisions that must be agreed to by the conflict public defender for indigent services.

5 QUALIFICATION REVIEW AND AWARD

The objective of the County in soliciting and evaluating qualifications is to ensure the selection of a firm or individual that will produce the best possible results for the funds expended.

5.1 Review

All qualifications will be reviewed first to ensure that they fully conform in all material respects to the solicitation requirements; qualifications will then be reviewed by an evaluation panel. Any qualification(s) not meeting the stated requirements may be found non-responsive.

5.2 Award

The County intends to award multiple contracts for Conflict Public Defenders and establish a candidate pool for future conflict cases. Award of Contract will be made to the responsive, responsible Offeror whose qualifications meet criteria listed in the scope of work.

EXHIBIT A – Proposed Contract

**PROFESSIONAL SERVICES CONTRACT AND RETAINER AS
CONFLICT COUNSEL FOR INDIGENT PERSONS**

THIS CONTRACT FOR PROFESSIONAL SERVICES, made and entered into on the ____ day of _____, 2022 and effective the _____ day of _____, 2022, by and between Bannock COUNTY, a political subdivision of the State of Idaho, acting by and through its duly elected Board of Commissioners, hereinafter called “COUNTY”, and _____, hereinafter called “COUNSEL”;

WITNESSETH:

WHEREAS, COUNTY is required by law to provide legal representation to certain needy and incapacitated persons at public expense; and

WHEREAS, COUNTY has met its statutory requirements under Idaho Code §§19-859(1)-(3) by providing for legal representation of needy person by employing and budgeting for a Public Defender Department with duly qualified and licensed attorneys; and

WHEREAS, the County Public Defender Department may, from time to time, be unable to represent said needy person(s) due to actual and/or legal conflicts of interest that have arisen or reasonably may arise during the course of representation; and

WHEREAS, COUNSEL is an attorney duly licensed to practice law in the State of Idaho, and is otherwise competent to counsel and defend a person charged with a crime and maintain an office for the practice of law in Bannock County, State of Idaho; and

NOW THEREFORE, COUNTY and COUNSEL enter into this Agreement on the following terms and conditions:

1. **TERM** The term of this contract shall be from _____ through _____ and shall contain the following provisions:
2. **CONSIDERATION and COMPENSATION:**
 - A. For all other cases, COUNSEL shall be compensated at the rate of \$85.00 per hour.
 - B. COUNSEL may petition the Commission for additional compensation. Additional compensation is not guaranteed, and may be limited by COUNTY budget restrictions and appropriations. Compensation requests shall be accompanied by accurate and verifiable reports.
3. **DESCRIPTION OF SERVICES:** COUNSEL shall furnish full and adequate representation as may be required to be furnished at public expense, and shall expend such time and effort as may be necessary to discharge the obligation of the COUNTY to provide representation at public expense, including the following:

- A. Full and adequate representation of such persons as may be determined by the Court to be eligible for such representation at public expense (except where a conflict exists) in the following cases:
- 1) Persons detained by a law enforcement officer, confined, or who are under a formal charge of having committed, or are being detained under a conviction of, a serious crime, as determined by the Court;
 - 2) Persons subject to proceedings under the provisions of the Uniform Rendition of Accused Persons Act, Idaho Code Title 19, Chapter 45;
 - 3) Persons party to proceedings under the provisions of the Uniform Post-Conviction Procedure Act, Idaho Code Title 19, Chapter 49;
 - 4) Persons formally petitioned to be within the purview of the Youth Rehabilitation Act, Idaho Code Title 16, Chapter 18, or the Juvenile Corrections Act, Idaho Code Title 20, Chapter 5;
 - 5) Persons subject to proceedings under Idaho Code Title 16, Chapters 16 and 20;
 - 6) Persons in contempt proceedings pursuant to Idaho Rule of Civil Procedure 75 or similar provisions of law.
 - 7) Persons subject to proceedings under Idaho Code Section 39-6306, Hearing on Petition for Protection Order;
 - 8) Persons for whom an attorney or guardian ad litem is appointed pursuant to Idaho Code Section 15-5-207(5) to the extent such appointments are lawfully at public expense; and
 - 9) COUNSEL shall be appointed to only represent clients under Paragraphs 3(A)(4) and 3(A)(5). It is the mutual intent of COUNSEL and of COUNTY that COUNSEL shall serve as the conflict of interest Public Defender for juvenile court and child protection cases in Bannock County and that COUNSEL structure their calendar to make them available primarily to that Court.
- B. Caseload Guidelines:
- 1) The parties acknowledge that the assigned caseload may include cases that were previously handled by another conflict attorney and/or the public defender's office.
 - 2) COUNSEL acknowledges that they will be assigned new cases as needed by COUNTY.
- C. Except as otherwise provided by law or order of the presiding District Court Judge or Magistrate, COUNSEL's duty to perform the services provided for herein shall extend not only to such persons whom the Court determines, after the commencement of the term of this contract, are entitled to representation at public expense, but also to such persons whom the court has previously determined are entitled to representation at public expense, regardless of the state of the proceeding involving such latter person as of the date of commencement of the term of this contract unless otherwise ordered by the Court.

- D. Unless otherwise conflicted, COUNSEL shall be available to serve as conflict counsel in any case in which there exists a true conflict, and a public defender or conflict public defender is appointed and removed.
- E. COUNSEL shall not serve as co-counsel in any such manner as to potentially create a conflict without first obtaining court approval. COUNSEL shall be excused from representing persons with whom an actual conflict of interest exists between COUNSEL and such person on legal or ethical grounds when the court having jurisdiction of the case determines that such a conflict exists. In such event, conflict representation shall be provided by court appointment, and the costs of such representation shall not be a charge against the compensation of COUNSEL provided for herein.
- F. COUNSEL shall maintain an office in the State of Idaho, and within 30 miles of Bannock County. Counsel shall promptly and reliably communicate with the court, the Board of Commissioners, and those persons whom COUNSEL represents under the terms of this contract.
- G. COUNSEL's services shall be initiated in each case at the time of the appointment of COUNSEL by the court in which such case is pending. A defendant's indigence may be reassessed at each stage of the proceedings and if the defendant is found not indigent, public representation services for such defendant may be terminated by the court.
- H. COUNSEL shall comport with their obligations under the Idaho Rules of Professional Conduct
- I. To prevent the appearance of conflict of interest, COUNSEL shall not represent any client in any law suit against COUNTY or its employees. COUNTY and COUNSEL agree that the appearance of conflict and remedy under this contract and paragraph are only because of this contract, and any other alleged conflict, real or perceived, will be dealt with separate and apart from this contract on a case-by-case basis.
- J. COUNSEL shall not be prohibited from the outside practice of law.
- K. COUNSEL may subcontract cases either on a case-by-case basis or by a class of case. If COUNSEL subcontracts on a case-by-case basis, subcontracting COUNSEL must be approved by the court. If COUNSEL subcontracts on a class basis, subcontracting counsel must be approved by the Board of County Commissioners before the subcontract takes effect. Subcontracting COUNSEL must meet all qualifications of COUNSEL relevant to the class or type of case being subcontract, and COUNSEL shall be solely responsible for all compensation and expenses of any subcontracted COUNSEL.
- L. COUNSEL shall maintain adequate policies of professional liability insurance at all times with any carrier licensed to issue such insurance in Idaho. COUNSEL shall furnish proof of such insurance to COUNTY upon request.
- M. The parties acknowledge that the Idaho Supreme Court has adopted certain qualifications for public defense counsel in cases where the death penalty may be or

has been imposed on a defendant. COUNSEL agrees to make good faith efforts to obtain and maintain such qualifications within a reasonable timeframe. However, the parties acknowledge that COUNSEL may be excused from representation if said COUNSEL does not meet the qualifications for either lead trial counsel or co-counsel.

N. COUNSEL shall continue to represent clients previously appointed under this agreement until the appointing court has granted permission for COUNSEL to withdraw. In the case of termination of this contract, COUNSEL shall continue representation of clients COUNSEL has been appointed to represent under the contract until one of the following conditions has been met:

- 1) The client's case reaches final disposition, including any appeal, or
- 2) New counsel has been appointed to the client.

If neither of these conditions has been met after 60 days from the effective termination of the contract, the COUNSEL may file a written motion requesting that the courts appoint a new public defender and allow COUNSEL to withdraw. COUNSEL may petition the Commission for additional compensation for actual representation provided to clients after the effective termination of the contract. This additional compensation is not guaranteed and may be limited by COUNTY budget restrictions and appropriations.

4. **RECORDS AND REPORTS:** COUNSEL shall compile and maintain complete and accurate records of each and every case assigned, and submit a monthly report to COUNTY. This monthly report shall include all the cases that COUNSEL has been assigned and the time spent on each case. Additionally, an annual report shall be submitted pursuant to Idaho Code §19-864, et seq., within 30 days of fiscal year-end to the COUNTY regarding the number of persons represented, the crimes involved, and expenditures by category (i.e. investigators, evaluations, extraordinary travel), totaled by kind; and maintain a written and/or digital copy of all criminal files according to standard profession practices.
5. **TERMINATION:** This contract shall terminate upon the expiration of the term hereof or upon the happening of any of the following events, whichever shall first occur:
 - A. Upon the death of COUNSEL;
 - B. Upon the inability of COUNSEL to perform any of the professional services provided for hereunder due to physical or mental disability. Physical or mental disability shall be determined by a court of competent jurisdiction or by two licensed physicians.
 - C. Disbarment or suspension from the practice of law, or failure of COUNSEL to maintain his license to practice law in the State of Idaho;
 - D. Material breach of any contract term by either party;
 - E. By 60 day written notice of either party, subject to the conditions found in 3(N) of this agreement. (See subsection 11 for notice requirements.)
 - F. By mutual agreement of the parties hereto, except that the parties must agree in writing regarding the terms of said mutual termination agreement.

G. Non-appropriation of funds as contemplated by paragraph 2(C).

6. **RIGHT OF CONTROL:** COUNTY agrees that it will have no right to control or direct the details, manner, or means by which COUNSEL accomplishes the results of the services performed hereunder. COUNSEL has no obligation to work any particular hours or days or any particular number of hours or days. COUNSEL agrees, however, that his other contracts or services shall not interfere with the performance of his services under this Agreement.
7. **INDEPENDENT CONTRACTOR RELATIONSHIP:** COUNSEL is an independent contractor and is not an employee, servant, agent, partner, or joint venturer of COUNTY. COUNTY shall determine the work to be done by COUNSEL, but COUNSEL shall determine the legal means by which it accomplishes the work specified by COUNTY.
8. **FEDERAL, STATE, AND LOCAL PAYROLL TAXES:** Neither federal, state or local income taxes, nor payroll taxes of any kind shall be withheld and paid by COUNTY on behalf of COUNSEL or the employees of COUNSEL. COUNSEL shall not be treated as an employee with respect to the services performed hereunder for federal or state tax purposes. COUNSEL understands that COUNSEL is responsible to pay, according to law, COUNSEL income tax. *CONTRACTOR* further understands that COUNSEL may be liable for self-employment (Social Security) tax to be paid by COUNSEL according to law.
9. **FRINGE BENEFITS:** Because COUNSEL is engaged in its own independently established business, COUNSEL is not eligible for, and shall not participate in, any employee pension, health, or other fringe benefit plans of COUNTY.
10. **LICENSE AND TRAINING:** COUNSEL shall maintain their license with the Idaho State Bar. COUNSEL shall participate in regular training programs and continuing legal education on criminal defense law in areas relating to their public defense practice.
11. **BAR DISCIPLINE:** COUNSEL shall immediately notify COUNTY in writing when COUNSEL becomes aware that a complaint lodged with the Idaho State Bar, or any other state where the attorney is licensed, has resulted in reprimand, suspension or disbarment of any attorney working under this agreement.
12. **INDEMNIFICATION:** COUNSEL agrees to indemnify, defend, and hold harmless COUNTY, and its officers, agents and employees, from and against any and all claims, losses, actions, or judgments for damages or injury to persons or property arising out of or in connection with the acts and/or any performances or activities of COUNTY, COUNTY's agents, employees, or representatives under this Agreement.

13. **SEVERABILITY:** If any part of this Agreement is held unenforceable, the remaining portions of the Agreement will nevertheless remain in full force and effect.
14. **NOTICES:** All notices between COUNSEL and COUNTY shall be directed by COUNSEL to the Bannock County Commissioners, 624 East Center, Room 101, Pocatello, ID 83201, and by COUNTY to _____ (Counsel name and address), or hand delivered to the location designated by the Bannock County Clerk as the mailbox for COUNSEL.
15. **ENTIRE AGREEMENT:** This is the entire agreement of the parties and can only be modified or amended in writing by the parties.
16. **GOVERNING LAW:** This agreement shall be construed in accordance with the laws of the State of Idaho.

ATTACHMENT 1 - OFFEROR QUESTIONS

PLEASE DO NOT IDENTIFY YOUR NAME OR YOUR COMPANY'S NAME OR PRODUCT NAMES OF INTELLECTUAL PROPERTY IN YOUR QUESTIONS.

ADD ROWS BY HITTING THE TAB KEY WHILE WITHIN THE TABLE AND WITHIN THE FINAL ROW.

The following instructions must be followed when submitting questions using the question format on the following page.

1. DO NOT CHANGE THE FORMAT OR FONT. Do not bold your questions or change the color of the font.
2. Enter the SOQ section number that the question is for in the "SOQ Section" field (column 2). If the question is a general question not related to a specific SOQ section, enter "General" in column 2. If the question is in regard to a County Term and Condition or a Special Term and Condition, state the clause number in column 2. If the question is in regard to an attachment, enter the attachment identifier (example "Attachment A") in the "SOQ Section" (column 2), and the attachment page number in the "SOQ page" field (column 3).
3. Do not enter text into the "Response" field (column 5). This is for the County's use only.
4. Once completed, this form is to be e-mailed per the instructions in the SOQ. The e-mail subject line is to state the SOQ name followed by "Questions."

SOQ – Bannock County Conflict Public Defender

Question	SOQ Section	SOQ Page	Question	Response
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BANNOCK COUNTY COMMISSIONERS

624 E. Center, Pocatello, ID 83201
Phone: (208) 236-7210 • Fax: (208) 232-7363



ERNIE MOSER
Commissioner
1st District

JEFF HOUGH
Commissioner
2nd District

TERREL N. TOVEY
Commissioner
3rd District

April 7, 2022

The Board of Bannock County Commissioners have reviewed and approved this request for statements of qualifications for Bannock County Conflict Public Defender. All qualifications received will be review and each individual and/or firm will be notified if the County wishes to proceed with a contract.

The County intends to award multiple contracts for Conflict Public Defenders and establish a candidate pool for future conflict cases that serves in the best interest of Bannock County.

Thank you for your participation in this solicitation.

BOARD OF BANNOCK COUNTY COMMISSIONERS

A blue ink signature of Ernie Moser, written in a cursive style.

Ernie Moser, Chair

A blue ink signature of Terrel N. Tovey, written in a cursive style.

Terrel N. Tovey, Member

A blue ink signature of Jeff Hough, written in a cursive style.

Jeff Hough, Member