



# RFQ/RFP

## VARIOUS CASE TYPES AND CONTRACT STRUCTURES

The Benton County Office of Public Defense (“BCPOD”) seeks statements of qualifications and proposals from qualified attorneys to provide public defense services in one or more of the following:

1	Misdemeanor and Gross Misdemeanor cases in Benton County District Court
2	Representation of children only in dependency and termination of parental rights cases pursuant to Benton County Local Juvenile Court Rule 9.2(A)1.e/f (conflict cases only)
3	Representation of juvenile offenders charged with Misdemeanor, Gross Misdemeanor, or Felony matters in Benton County Juvenile Court (conflict cases only)
4	Other “miscellaneous civil matters” where public defense counsel is required by law. This includes termination of parental rights due to privately filed adoptions, forensic mental health commitment reviews, and conflict contempt of court cases (mostly child support based).

Law firms with the capability to provide contract public defense services using specific, identified attorneys, are welcome to provide a proposal to provide the services sought under this RFQ. Preference may be given to attorneys or law firms with capability to provide services enumerated above in b)-d) in addition to a).

**RFQ CLOSSES AUGUST 16, 2019 BUT CONTRACTS MAY BE AWARDED EARLY**

### Summary

- Contracts to be awarded in District Court for criminal cases, Superior Court for miscellaneous civil cases, and Juvenile Court for dependency, termination of parental rights, and juvenile offender cases

- To the extent that other local jurisdictions such as Franklin County and the City of Pasco also have concurrent RFPs or RFQs for similar public defense services, if applicants apply to multiple jurisdictions at the same time, BCOPD may coordinate with such other local jurisdictions in contract award decisions to maximize the coverage of needs and benefits to applicants
- Anticipated caseload need of up to 500 cases for remainder of 2019 for District Court
- Other anticipated caseload volumes are as stated in body of this RFQ/RFP
- BCOPD has flexibility in the fashion in which contracts are awarded as between “full-caseload” or “partial caseload” contracts, and “full rotation” or “conflict/overflow only” contracts
- For misdemeanors and gross misdemeanors in Benton County District Court
- **Compensation details:**
  - **\$192 and \$200 per case as a flat fee exclusive of trial per diems (which are \$300 per day) for District Court cases**
  - **\$225 per misdemeanor/gross misdemeanor; \$500 per non Class A felony; \$1,200 per Class A felony for Juvenile offender cases**
  - **Open to proposals for representation of children on dependency/termination of parental rights cases (for reference, historically these have been paid on a flat-fee basis of approximately \$1,600 per case per year they are open)**
  - **Open to proposals for compensation on misc civil cases (these cases have historically been paid for on an hourly rate)**

How to Apply

**Before applying, please make sure to read this RFQ announcement in its entirety. Any questions should be addressed in writing to: [OPD@co.benton.wa.us](mailto:OPD@co.benton.wa.us).**

If you meet the Minimum Qualifications, then you are invited to apply for this RFQ in the following manner:

Interested candidates must apply by submitting the following materials to the contact listed below by the RFQ close date:

1. A letter of interest providing any background, experience or professional accomplishments that the applicant wishes to be considered, and addressing any matters relating to proposed service delivery (in the case of a law firm applicant) and proposed pricing or fee structures (as applicable)
2. A current resume of individual applicants and, in the case of law firm applicants, of supervising attorneys who will ensure that service delivery meets contract and state public defense standards
3. A copy of current malpractice and commercial general liability insurance meeting insurance requirements (see Required Qualifications for details) *or statement that insurance meeting requirements will be procured upon award of contract*
4. (Optional) letters of reference from listed professional references
5. For firm applicants or individuals who are planning on sub-contracting the work involved in providing the services, a brief written plan detailing how the applicant proposes to provide the necessary services, including details on how quality control and compliance with Washington State public defense standards will be ensured.

**Benton County reserves the right to review applications and award contracts as they are submitted so early application is strongly encouraged.**

**Electronic submission is strongly encouraged** and may be emailed to: [OPD@co.benton.wa.us](mailto:OPD@co.benton.wa.us) (please indicate “RFQ Response – JULY 2019 Public Defense Contracts”) in subject line of email application.

Contact information for mailed applications and for any questions is as follows:

Eric Hsu, Public Defense Manager  
Benton County Office of Public Defense  
7122 W Okanogan PI, Bldg A  
Kennewick, WA 99336  
[OPD@co.benton.wa.us](mailto:OPD@co.benton.wa.us)

**THIS RFQ WILL CLOSE ON AUGUST 16, 2019. HOWEVER, BENTON COUNTY RESERVES THE RIGHT TO AWARD CONTRACTS AS NEEDED IN ADVANCE OF THE RFQ CLOSE DATE SO EARLY SUBMISSION IS ADVISED.**

Background

## Background

Benton County provides indigent defense services through the Benton County Office of Public Defense (“BCOPD”). BCOPD is responsible for providing public defense cases on all cases in Benton County Superior, Juvenile, and District Courts that require court-appointed counsel.

BCOPD provides most of its legally mandated public defense services through contracts with private attorneys.

Due to attrition and growing caseloads, BCOPD has contract needs for a variety of cases and dockets.

## Contract Details

### Number and Effective Dates of Contracts

Not conclusively decided yet at the time of this initial RFQ. However, estimates of caseload volumes that need coverage are as follows:

Type of Case	Estimated Annual Volume Needing Coverage
District Court Misdemeanors and Gross Misdemeanors	<b>Up to 500 cases</b> for the remainder of 2019
Juvenile Court Conflict Offender (criminal) cases	Average anticipated volume per year is <b>5-10 cases</b>
Juvenile Court Conflict Dependency/Termination of Parental Rights (children’s representation)	Average anticipated volume per year is <b>10 cases</b>
Misc Civil Cases	Average billable hours per year, over the past two years, has been <b>200 hours</b>

All contracts will be awarded on an as-soon-as-possible basis.

## Eligibility

All attorneys admitted to practice law in the State of Washington who meet the Required Qualifications (stated below) and who have, or are prepared to establish, a private law office with access to confidential meeting facilities within the Tri-cities metropolitan area (Richland, Kennewick or Pasco) or otherwise within 10 miles of the Benton County Justice Center in Kennewick are eligible and invited to apply.

Applications will also be accepted for law firm applicants subject to the terms and conditions stated herein.

## Compensation Plan

Compensation differs between case types and dockets. Applicants are encouraged to be available for different case types and proposals for handling multiple case types for compensation rates different than listed in this RFQ will be accepted.

### **District Court Compensation Plan**

Compensation is as a flat rate for cases as assigned, and ranges from \$192-200 per case depending on contract type.

In addition to the base compensation, contractors also receive a per-docket compensation of \$150 for each initial appearance docket they cover as stand-by counsel, a trial *per diem* of \$300 per full day of trial and \$150 per half day and are reimbursed for all case related out-of-pocket expenses<sup>1</sup> (pre-approval required) including expenses for any necessary travel.

Contractors are never responsible for the cost of conflict counsel, defense investigators, or other experts and professionals necessary for the defense of a case. Those expenses are separately requested, approved, and paid for, directly through BCOPD using an administrative procedure that does not involve the court.

Monthly compensation payable as long as all contract provisions are complied with (including, and particularly, caseload reports). Other compensation is payable upon incurring and filing of a Claim for Compensation (usual billing cycle is 30 days). Contractors must file Claims for Compensation using approved forms within billing

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<sup>1</sup> Office overhead expenses or other expenses inherent in the practice of law are excluded from eligibility for reimbursement.

timeframes (usually within 60 days of incurring expense or becoming eligible for additional compensation) in order to be compensated.

**District Court Case Equivalent Calculations**

Case Equivalents, for purposes of compensation, are calculated as follows:

Type of Case	Case Equivalents
Misdemeanors and Gross Misdemeanors	1.0
Probation violation cases	0.33
Conflict withdrawals	Up to 0.5
RALJ Appeals	4.0

**Juvenile Court Compensation Plan**

Compensation for conflict cases in Juvenile Court has historically been on a flat-fee basis as follows:

*Proposals for different compensation rates or structures will be accepted and considered.*

Children’s representation on dependency and termination of parental rights cases	\$1,000 per case per year
Conflict juvenile offender cases	\$225 for misdemeanors/gross misdemeanors \$500 for felonies other than Class A felonies \$1,200 for Class felonies

**Misc Civil Case Compensation Plan**

Compensation for misc civil cases in Superior Court has historically been on an hourly basis.

*Proposals for different compensation rates or structures will be accepted and considered.*

Compensation for misc civil cases	\$55/hr
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### District Court Maximum Caseload & Compliance with Standards

BCOPD observes an un-weighted caseload maximum of 400 misdemeanor and gross misdemeanor cases per attorney per year and generally will not award contracts in excess of 390 cases per attorney per year.

All applicants awarded contracts pursuant to this RFQ are solely and personally responsible for familiarizing themselves and complying with all public defense standards and legal requirements associated with the practice of law in the State of Washington. This includes Washington State Public Defense Standards as adopted by the Washington State Supreme Court and codified in court rules in the “Standards for Indigent Defense” (SID) section; Benton County’s Public Defense Ordinance; and the Rules of Professional Conduct (RPCs).

### Scope of Services

The services contemplated by this RFQ consist of all aspects of full-service representation as required by law.

### **District Court Criminal Cases & Juvenile Offender Cases**

The successful candidate would be responsible for fully, completely, and diligently representing criminal defendants according to standards set by applicable statutes, caselaw and the Rules of Professional Conduct. Examples of responsibilities include, but are limited to:

- Investigating or otherwise making appropriate inquiry into the facts of given cases
- Consulting with defendants, advising of the nature of charges, discussing possible resolutions, formulating defenses, and preparing for trial if appropriate
- Conferring and negotiating with prosecuting attorneys about cases
- Attending any and all court appearances pertaining to assigned cases including but not limited to arraignment, pretrial hearings, omnibus, trial, sentencing and restitution hearings
- Retaining and supervising the services of experts and/or investigators as appropriate
- Researching legal issues, and filing and arguing motions as appropriate

Contract public defenders are also responsible for:

- Being on-call 24 hours a day for a week at a time (using cell phone supplied by BCOPD) to answer questions posed by in-custody potential clients (primarily on DUI investigations) on a schedule determined by BCOPD.

- (Optional) Attending walk-in preliminary appearance dockets on the primary preliminary appearance dockets (currently scheduled for Friday) to be available for general consultation by defendants appearing on such dockets. These dockets are primarily staffed by volunteers on a schedule determined by BCOPD and are separately compensated on a per-docket basis.

### **Children’s Representation on Juvenile Dependency and Termination of Parental Rights**

For this type of case representation, successful candidate would be responsible for representing and advocating for the interests of children, age 8 and above, subject to dependency or termination of parental rights cases. The roles and responsibilities in these cases are similar to that of court-appointed Guardian Ad Litem, and include:

- Meeting with the child-client, explaining the court process, understanding the child’s desires, making note of the child’s environment and circumstances, and answering questions
- Attending court appearances with the child-client and advocating for the child’s stated desires and best interests

## **Qualifications**

### **Required Qualifications**

The requirements must be met for individual applicants. In the case of law firm applicants or individuals who are planning to sub-contract, all individual attorneys who are members of the firm, or who will be doing sub-contracted work and therefore will be attorney of record, must meet these qualifications.

- Active membership (in good standing) in the Washington State Bar;
- **For criminal or juvenile offender cases:**
  - At least half a year full-time experience either as a criminal prosecutor or criminal defense attorney (this requirement may be modified or waived on a case by case basis with the right candidate and with implementation of a formal mentorship arrangement);
  - Must have tried at least one criminal case to a jury either as a criminal prosecutor or criminal defense attorney or had similar experience;
  - Familiarity with Washington criminal statutes and municipal code provisions of cities within Benton County in particular pertaining to misdemeanor and

gross misdemeanor crimes, Courts of Limited Jurisdiction criminal rules, constitutional provisions, and key case law;

- (District Court criminal only) Familiarity with collateral consequences of misdemeanor criminal convictions in general under both State and Federal law as well as specific collateral consequences of common crimes (including, but not limited to, sex offender registration, driver's license suspension, security clearance revocation and firearm offender registration);
- (Juvenile Offender only) Familiarity with collateral consequences of juvenile convictions in general and the process for sealing juvenile records including automatic sealing statutes
- Familiarity with immigration consequences of felony and certain misdemeanor arrests and convictions to the degree required by *Padilla v. State of Kentucky*.
- Familiarity with mental health issues including knowledge of when need to obtain expert services is triggered;
- **Must have excellent caseload management skills that are appropriate for a caseload of the size anticipated by this RFQ;**
- **Familiarity with, and ability to certify to, indigent defense standards as applicable to District Court cases and/or applicable to representation of children in dependency matters;**
- **Either currently insured or able to procure insurance meeting following parameters:**
  - **Malpractice insurance in the amount of \$1 million per occurrence, \$1 million general aggregate and a deductible of no less than \$10,000**
  - **Commercial general liability insurance in the amount of \$1 million per occurrence, \$2 million general aggregate**
- **Demonstrated commitment to public defense and service to indigent clients;**
- **Willingness and ability to meet with appointed clients (including clients incarcerated in the Benton County Jail) within 72 hours of appointment on District Court and Juvenile Court offender matters;**

Desirable

- Working knowledge of prosecution practices in Benton County, particularly in the Benton County Prosecutor's Office and the prosecution offices of the various municipalities in Benton County

- Working knowledge of District Court procedures in Benton County

All parties responding to this Request for Qualifications, by their submission of any application material, agree to be bound by the following terms and conditions.

*This request for qualifications constitutes a request for interested parties to provide notice of their interest and a summary of their qualifications only. This is not an offer to any particular person or to the general public and cannot be accepted so as to create a contract binding upon Benton County, its elected officials, employees or agents. Only upon execution of a contract whether pursuant to this RFQ or otherwise, will Benton County have any contractually binding obligations. Benton County reserves the right to change the terms and conditions of either this request for qualifications (including timeframes, deadlines and any other aspect it deems appropriate to change) or the terms and conditions of the contract to be offered, with or without notice and without recourse by applicants or any other party alleged in any way to be negatively affected.*