



Indigent Defense Legal Services Contract No. 493-14

1. Representation as to Ability: Contractor represents that Contractor is licensed to practice law in Iowa and that Contractor meets the minimum qualification requirements established by rules adopted by the State Public Defender (“SPD”) for the particular types of cases designated by Contractor under this contract. Contractor also represents that Contractor shall continue to comply with any ongoing qualification requirements under such rules for the duration of this contract and shall continue to perform services contemplated unless this contract is terminated.

2. Services to be Performed by Contractor: Contractor will provide legal services to indigent persons in the particular types of cases and counties designated by Contractor and approved by SPD on the separate, signed Acceptance and Approval form, or a subsequent written amendment to the Contract. Contractor will only provide legal services in cases in which appointment of counsel is either constitutionally required or statutorily permitted under the provisions listed in section 815.11 of the Iowa Code and to which the court appoints Contractor or the State Public Defender transfers to Contractor pursuant to section 814.11(2)(b) of the Iowa Code. Contractor may decline appointments.

3. Compensation: Contractor will be paid for legal services performed by Contractor under this contract pursuant to rules adopted by SPD, and such rules are deemed incorporated into the terms of this Contract. Contractor shall use Contractor’s best efforts and legal ability on behalf of the client in each case undertaken and shall claim fees only for actual time and case-related expenses reasonably necessary to properly represent the client. These fees and expenses will be paid to the extent specified in rules adopted by SPD.

4. Billing: To be paid, Contractor must submit a claim to the State Public Defender in a form prescribed by SPD. The claim must be submitted within the time prescribed by statute and rule, and shall contain the information required by SPD.

5. Payment Set-Off: SPD or the Iowa Department of Administrative Services may set-off against any sum owed to Contractor pursuant to this contract any sum owed to the State by Contractor as allowed by law.

6. Independent Contractor: Contractor is an independent contractor performing this contract. Contractor is not an employee or agent of SPD or the State and will not hold itself out as an employee or agent of SPD or the State.

7. Non-Exclusive Contract: SPD may contract with other attorneys to provide the services described in this contract. SPD does not guarantee Contractor any minimum number of case assignments.

8. Third-Party Beneficiaries: There are no third-party beneficiaries to this contract. This contract is for the benefit of SPD, State of Iowa, and Contractor.

9. Assignment: Contractor shall not assign, transfer, or otherwise dispose of the duties authorized under this contract to any person, firm, or other entity without the prior written consent of SPD. Contractor shall not assign, transfer, or otherwise dispose of any rights, title, claim, or other interest in this contract to any other person, corporation, or other entity without the prior written consent of SPD. Any attempted assignment or transfer shall be null and void. Nothing in this provision is intended to prohibit Contractor from having another attorney serve as a temporary substitute counsel on behalf of Contractor so long as Contractor is at all times personally responsible for the representation of the client and ensures that substitute counsel is qualified to perform the work directed and that the client is effectively represented at all times. Contractor is responsible for compensating substitute counsel, and Contractor shall only be paid for work performed by substitute counsel as provided for in the rules adopted by SPD.

10. Termination at Will: Either party may terminate this contract in whole or in part by giving thirty (30) days written notice to the non-terminating party. In the event of termination, the Court shall determine whether the appointed attorney shall continue to handle cases to which the attorney was appointed by virtue of this Contract. Any continued services for such cases will be paid as provided herein.

11. Termination for License Suspension or Revocation. If Contractor is no longer permitted to practice law in Iowa for any reason, including the suspension or revocation of the attorney's license, this contract shall terminate immediately without notice. Upon termination of the contract, services to be performed by Contractor shall cease. All cases being handled by Contractor shall be returned to the Court for reassignment.

12. Termination for Default. SPD may issue a notice of default based on any of the grounds described in Administrative Rule 493-11.8(13B). A notice of default shall state the grounds of default and, if feasible, request that Contractor remedy the default within 10 days of the date of the notice. If the events triggering the notice of default continue to be evidenced more than 10 days beyond the date of written notice, SPD may immediately terminate the contract without further notice by issuing a notice of termination. Unless SPD consents in writing to Contractor's continued performance on a pending case, upon termination of the contract, services to be performed by Contractor shall cease, and all cases being handled by Contractor shall be returned to the Court for reassignment.

13. Termination for Improper Billing Practices. SPD may terminate this contract for improper billing practices if SPD determines that the attorney has engaged in a pattern of willful, intentional, reckless, or negligent submission of false fee claims. Unless SPD consents in writing to Contractor's continued performance on a pending case, upon termination of the contract, services to be performed by Contractor shall cease, and all cases being handled by Contractor shall be returned to the Court for reassignment. Any claim submitted by Contractor after termination of the contract or that was previously submitted and has not yet been approved by SPD shall be paid only to the extent that the claim is supported by authentic, independent, written documentation originating from sources other than Contractor, even if such a claim would otherwise be payable under the rules adopted by SPD. Any portion of a claim for a service performed or expense incurred that is not independently verified by such documentation is not payable under this contract and shall be denied.

14. Termination by Mutual Consent. Upon the mutual consent, confirmed in writing, of SPD and Contractor, the contract may be terminated on less than 30 days' notice. Such termination may affect the entire contract or may relate solely to a particular county or geographical area or to a particular type of case. In the event of termination, the Court shall determine whether the appointed attorney shall continue to handle cases to which the attorney was appointed by virtue of this Contract. Any continued services for such cases will be paid as provided herein.

15. Termination for Non-Appropriation: The SPD may terminate this contract without any penalty or liability to Contractor upon the occurrence of any of the following: if funds necessary for the fulfillment of this contract are not appropriated by the legislature or the governor; if funds previously appropriated are not allotted to SPD; or if necessary funds are insufficient for any other reason. If the contract is terminated pursuant to this paragraph, SPD will provide Contractor with written notice of termination. Following termination for non-appropriation, the sole remedy of Contractor against the State is to recover compensation for services rendered prior to termination.

16. Waiver of Breach: Failure of the party to require strict performance of an obligation imposed by this contract shall not constitute a waiver of the obligation or limit a party's right to enforce this contract.

17. Compliance with Laws: Contractor shall comply with all applicable federal, state and local laws, and all applicable rules, including all laws relating to wages, non-discrimination in employment, and occupational safety and health. The specific performance and reporting requirements imposed on state contractors by the rules of the Department of Management that relate to the state's policy of prohibiting discrimination in employment are incorporated by reference. Contractor's failure to comply with the terms of this section shall be considered a material breach of this contract.

18. Records, Retention and Access: Contractor shall maintain books, records, documents, and other evidence of accounting procedures and practices which sufficiently and properly reflect the services performed and for which payment was requested or which relate to the work performed pursuant to this contract. The SPD shall not have access to confidential client or case information. Contractor shall make such records to which access may properly be made to SPD available to the designee of the SPD or to the State Auditor upon request. These parties shall have the right to examine, audit, excerpt and copy all such records, not subject to attorney-client privilege. Contractor shall retain all books, records, documents and other relevant materials for five years after payment has been made under this contract.

19. Indemnification: Contractor shall defend, protect, indemnify, and hold harmless SPD, State of Iowa and any federal funding source and all of the employees or appointees of each for all liabilities, losses, actions, damages, costs, expenses, and reasonable attorney's fees, including fees which represent time spent by the Office of the Attorney General of Iowa, arising from any negligent or willful acts, omissions, or any breach of this contract by the Contractor, its employees or agents. Contractor's obligations pursuant to this paragraph shall survive the termination of this contract for any claims, related to or arising from a breach of this contract or for acts or omissions, occurring during the term of this contract.

20. Notices: Notices, approvals, and communications required by this contract shall be in writing unless indicated otherwise in this Contract. "Writing" may include electronic documents to the extent permitted by rules adopted by SPD.

21. Modifications: Any modifications to the terms of this contract by reason of changes in administrative rule shall be deemed accepted by Contractor unless Contractor notifies SPD of rejection of these modifications within thirty days of the effective date of the modification. Upon receipt of such rejection, this contract shall terminate. If this contract is so terminated, the Court shall determine whether the appointed attorney shall continue to handle cases to which the attorney was appointed by virtue of this contract. Any continued services shall be paid as provided herein.

22. Targeted Small Business: If requested by the SPD, Contractor shall consult with the SPD concerning the use of targeted small businesses as a potential source of services and suppliers to facilitate SPD's participation in the state's targeted small business procurement program.

23. Choice of Law, Judicial Review, and Forum: This contract shall be interpreted pursuant to the laws of Iowa. A motion for judicial review pursuant to chapter 13B of the Iowa Code shall be the exclusive method of seeking judicial review of any action or intended action denying or reducing a claim for payment under this contract. The judicial review provisions of chapter 17A of the Iowa Code shall be the exclusive means of seeking judicial review of any other action or inaction by SPD arising from or related to this Contract. Except for a motion for judicial review pursuant to chapter 13B, any action brought to resolve any issue arising from the interpretation or performance of this Contract must be brought in Iowa District Court for Polk County.

24. Execution of Documents: The parties agree to promptly execute all documents necessary to effectuate this contract.

25. Effective Date: This contract shall apply to legal services rendered by Contractor after the effective date of the contract, including services performed pursuant to an appointment order entered prior to the effective date of the contractor.

26. Severance: If any provision of this contract is finally held to be unenforceable by a court of competent jurisdiction, the invalid portion shall be severed from this contract but, if possible, the remainder of this contract shall remain valid.

27. Integration: Each party understands that a separate Acceptance and Approval form will be signed as a part of this contract. This contract and that form are the entire agreement between the parties. Any representations that may have been made before the signing of this contract are not binding. Neither party has relied on prior representations in entering into this contract.