



STATE OF NEW MEXICO SOLE SOURCE REQUEST AND DETERMINATION FORM

A sole source **determination** is not effective until the **sole source request for determination** has been posted for thirty (30) calendar days without challenge, and subsequently approved in writing by the State Purchasing Agent or, for Professional Services Agreements, the Secretary of the General Services Department. The foregoing requirement is regardless of whether the **sole source request for determination** has been signed by the Agency and/or the Contractor.

I. Name of Agency: Law Offices of the Public Defender

Agency Chief Procurement Officer: Liliana Ornelas
Telephone Number: 505-490-3702

Agency Contact for this request: Randy M. Chavez
Telephone Number & Email Address: (505) 545-8643, randy.chavez@ccls.lopdnm.us

II. Name of prospective Contractor: Henry Castillo – Castillo Law Office
SHARE Vendor Number (must be active): 0000182164
Address of prospective Contractor:

1100 Lomas Blvd NW, Suite 1A
Albuquerque, NM 87102-1878

Contact Name, Telephone Number and Email Address: Henry Castillo, (505) 546-1701,
Castillolaw505@gmail.com

Amount of prospective contract before tax: \$150,000

Estimated tax amount (tax is subject to change): \$11,700

Term of prospective contract: April 3, 2025 through October 31, 2025

Note: For terms longer than one year, Request for Policy Exemption from DFA MUST be included.

III. Agency is required to state purpose/need of purchase and thoroughly list the services (scope of work), construction or items of tangible personal property of the prospective contract (if this is an amendment request to an existing contract, include current contract number issued by SPD):

The purpose of this contract is for Contractor to perform legal services in the 5th Judicial

District in Chaves, Lea and Eddy Counties. Contractor will represent indigent clients on behalf of the Law Offices of the Public Defender (LOPD)/Contract Counsel Legal Services (CCLS) on Misdemeanor, Juvenile, and Felony cases.

In April of 2024, the LOPD/Contract Counsel Legal Services (CCLS) sent out a Request for Proposals (RFP) for attorney contractors interested in representing indigent clients on behalf of the LOPD throughout the State. The contract period began on November 1, 2024. The RFP resulted in fewer than the anticipated number of applicants for the 5th Judicial District. These independent contractors represent clients in situations where there is a conflict with the LOPD or in jurisdictions where there is no LOPD office. In the 5th Judicial District, Contractor will represent clients on cases where there is a conflict with the LOPD. Because of the high number of cases being assigned to Contract Counsel in conflict cases, we specifically need another Contractor to accept assignments in the 5th Judicial District. At this time, the topic of this Sole Source application is one of four Contractors available to practice in the 5th Judicial District, but the case load is exorbitant. The Contractor has executed a contract for less than \$60,000.00, but he has already expended the available funds under that contract, and he can no longer accept new case assignments until a new contract is executed. The LOPD/CCLS is going to be sending out a new RFP in April of 2025. This contract period will commence on November 1, 2025. Despite the past RFP and requests to other contractors, the LOPD/CCLS cannot secure another Contractor for the 5th Judicial District. Contractor is the sole source which can provide the legal services requested in this Sole Source Application.

- IV. Provide a detailed explanation of the criteria developed and specified by the agency as necessary to perform and/or fulfill the contract and upon which the state agency reviewed available sources. (Do not use “technical jargon;” use plain English. Do not tailor the criteria simply to exclude other contractors if it is not rationally related to the purpose of the contract.)

The following is an explanation of the criteria specified by the LOPD/CCLS as necessary to perform the legal services duties and/or fulfill the contract:

- 1) Contractor must have the ability to meet the Performance Standards for Criminal Defense Representation; including, but not limited to, not have any suspensions or disciplinary action by any state bar association or termination from any legal employment, and must disclose any and all contracts with any other state agency to which Contractor is a party to at the time of this contract;
- 2) Contractor must have criminal law experience representing clients on Misdemeanor, Juvenile and Felony cases;
- 3) Contractor must have criminal jury trial and bench trial experience;
- 4) Contractor must have good office organizational skills and a calendaring/docketing system;
- 5) Contractor must have the ability to meet with clients in a confidential setting to form an appropriate attorney and client relationship, both with clients in custody and out of custody;
- 6) Contractor must have the ability to zealously advocate for clients;

- 7) Contractor must possess the knowledge of relevant law, courts and rules;
- 8) Contractor must provide a list of criminal defense trainings attended and the number of CLEs obtained in 2024 and 2025;
- 9) Contractor must disclose all complaints received by the LOPD and the Disciplinary Board within the last ten (10) years;
- 10) Contractor must have the ability to comply with LOPD policies and procedures; including, but not limited to, disclosure of a spouse, parent, children, or siblings, by consanguinity or affinity, who are employed at the LOPD;
- 11) Contractor must have the ability to advocate by writing motions, doing legal research, and have experience in preserving legal issues, etc.;
- 12) Contractor must be in good standing with the New Mexico State Bar; and,
- 13) Contractor must have a positive assessment from the Judiciary.

Contractor will represent clients from case assignment until final disposition. Contractor will:

- 1) Advise client of the right to jury trial and right to speedy trial, advise client the elements of the charge and that the prosecutor must prove each element beyond a reasonable doubt to obtain conviction, advise client of right to present a defense, advise client it is solely the client's decision whether to accept or reject any plea offer, and will discuss with the client any potential witnesses or avenues of the investigation;
 - 2) Determine whether the client is competent to proceed to trial, has a sufficient literacy level to understand written court documents such as a guilty plea or sentencing orders, whether the client needs an interpreter, and whether the client is a non-citizen in need of expert immigration advice;
 - 3) Respond to information provided by the client and obtain discovery from the prosecution in each case, including pursuing additional discussions with the client on whether additional investigation or a medical evaluation needs to be conducted;
 - 4) File motions and argue any motions to the Court on any legal issues identified by the Contractor;
 - 5) Advising and discussing with client all possible options regarding possible disposition, including providing the client information on treatment services, a less onerous disposition based on treatment, explanations of plea offers, the consequences of conviction, and possible sentencing;
 - 6) Contractor will prepare and represent a client in a trial, if the client decides he want to proceed to trial;
 - 7) If the client accepts a plea and disposition agreement or is convicted in trial, Contractor will draft a Sentencing Memorandum, produce witnesses, and otherwise provide allocution in the sentencing hearing; and,
 - 8) If client is convicted in trial, Contractor shall file a Notice of Appeal and shall complete a Docketing Statement.
- 4) Provide a detailed, sufficient explanation of the reasons, qualifications, proprietary rights or unique capabilities of the prospective contractor that makes the prospective contractor *the one source* capable of providing the required professional service, service, construction

or item(s) of tangible personal property. (Please do not state the source is the “best” source or the “least costly” source. Those factors do not justify a “sole source.”)

Contractor has been a licensed attorney in New Mexico since 2018, and he possesses the requisite knowledge and experience necessary to perform the legal services duties and/or fulfill the contract, as described above in Section IV (above). In 2013, Contractor received his Law Degree from Arizona Summit Law School. As a Law Student Practicing Attorney, he was employed with Attorney T. Anthony Guajardo in Phoenix, Arizona from August of 2012 through October of 2014. The law firm represented clients in criminal cases. From November of 2016 through June of 2018, Contractor was employed with Alcock & Associates in Phoenix, Arizona. In June of 2018 he began work for the Genus Law Firm in Albuquerque, New Mexico where he remained until February of 2019. The law firm represented clients in criminal cases. In 2019, Contractor began employment with the Amparo Allevante Law Firm in Albuquerque where the law firm was representing clients in Criminal Cases, as well as in other areas. Thereafter, he became an Associate with another Contractor and represented clients in Criminal cases. In October of 2024, Contractor entered into a contract with the LOPD/CCLS. Contractor currently has a contract of less than \$60,000.00 with the LOPD/CCLS, but has expended the amount allowable under the contract. Contractor has complied with all provisions of the criteria specified by the LOPD/CCLS as necessary to perform the legal services duties and/or fulfill the contract. Contractor is willing to accept cases in the 5th Judicial District for the rates described in the LOPD/CCLS contract; therefore, Contractor is the least costly source. If this request is not granted, the LOPD/CCLS will have to start declining conflict cases in the 5th Judicial District, because he is only one of four contractors in the 5th Judicial District.

- 5) Provide a detailed, sufficient explanation of how the professional service, service, construction or item(s) of tangible personal property is/are ***unique and how this uniqueness is substantially related to the intended purpose of the contract.***

Given Contractor’s knowledge and experience in representing clients in criminal cases (as described above), Contractor’s abilities are unique and are substantially related to the purpose of representing clients on behalf of the LOPD/CCLS in conflict cases (Please refer to Sections III. and IV. above).

- 6) Explain why other similar professional services, services, construction or item(s) of tangible personal property ***cannot*** meet the intended purpose of the contract.

As stated above, despite the LOPD/CCLS’s attempts to find other contract counsel, this Contract Counsel is willing to accept cases in the 5th Judicial District. Simply, there are no other attorneys willing to accept case assignments in the 5th Judicial District. There is no other attorney who can meet the intended purpose of the contract in representing the indigent clients in the 5th Judicial District.

- 7) Provide a narrative description of the agency’s due diligence in determining the basis for the procurement, including procedures used by the agency to conduct a review of available sources such as researching trade publications, industry newsletters and the internet;

contacting similar service providers; and reviewing the State Purchasing Divisions' Statewide Price Agreements. Include a list of businesses contacted (*do not state that no other businesses were contacted*), date of contact, method of contact (telephone, mail, e-mail, other), and documentation demonstrating an explanation of why those businesses could not or would not, under any circumstances, perform the contract; or an explanation of why the agency has determined that no businesses other than the prospective contractor can perform the contract.

We will be sending out another RFP in April of 2025, but that contract period will not commence until November 1, 2025. As stated earlier; although the RFP will be sent out in April of 2025, we are in desperate need if a Contractor interested in representing indigent clients in the 5th Judicial District.

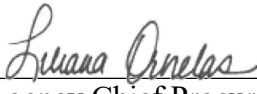
Previously, when the LOPD/CCLS issued the RFP on April 28, 2024, the RFP was advertised in the:

- 1) Albuquerque Journal (newspaper),
- 2) the Las Cruces Sun (newspaper),
- 3) The Santa Fe New Mexican (newspaper),
- 4) the State Bar Bulletin (which is sent out to all New Mexico Attorneys),
- 5) the LOPD Social Media Pages on Facebook and Twitter,
- 6) the LOPD Website,
- 7) the New Mexico Criminal Defense Lawyers Association List Service (NMCDL) (which goes out to all members of the NMCDL), and
- 8) to the attorneys on the Federal CJA Panel.

As previously stated in Section III. above, aside from our 3 Contractors, no other contractors expressed any interest in representing clients in conflict cases in the 5th Judicial District. During the RFP process, the Director of Contract Counsel inquired of specific contractors whether they were willing to accept cases in the 5th Judicial District, and no contractors were willing to do so. In addition, during the interim period, the Director has been unsuccessful in securing new Contract Counsel for the 5th Judicial District.

Certified by:

Date: 3/2/2025


Agency Chief Procurement Officer

Agency Approval by:

Date: _____

Cabinet Secretary/Agency or Entity Head or Designee

APPROVED:

Date: N/A

N/A
State Purchasing Agent

If this sole source is being submitted by a governmental agency or governmental entity not under the final authority of the State Purchasing Agent, the State Purchasing Agent's signature is not required. The signature line may be removed from this form or marked as N/A. Hard Copy Documentation for Courtesy Postings do not need to be submitted to SPD for approval.