



**REQUEST FOR QUALIFICATIONS (RFQ_u)
NO. 001/2023**

LEGAL SERVICES

The Office of Conflict Counsel and the Judiciary of the U.S. Virgin Islands Office through the Judicial Branch Administrative Office seeks the services of legal representation for indigent defendants not provided by the Office of the Public Defender.

All proposals and other communications must be addressed and returned to:

Regina Petersen, Administrator of Courts
Judicial Branch Administrative Office
P.O. Box 590
St. Thomas, U.S. Virgin Islands 00804

Issue Date: January 24, 2023

Response Date: February 24, 2023 @ 4:00P.M. AST

Judiciary of the U.S. Virgin Islands

No. 8174 Subbase St. Thomas Virgin Islands 00802 · No. 18 Strand Street Frederiksted, St. Croix 00841
Telephone 340-774-2237(STT)-340-778-0641(STX) · Fax 340-774-2258(STT)-340-772-0004(STX)

REQUEST FOR QUALIFICATIONS

Date:

To: Licensed Attorneys and Law Firms

From

Judiciary of the Virgin Islands
Office of the Administrator of Courts
No. 8174 Subbase
P.O. Box 590
St. Thomas, U.S. Virgin Islands 00804

Send Statements of Proposals to:

Attn: Mrs. Regina Petersen
Administrator of Courts
Judiciary of the Virgin Islands
Division of Procurement
No. 8174 Sub Base
P.O. Box 590
St. Thomas, U.S. Virgin Islands 00804
*(Indicate RFQu Number and Project Name
on lower left corner of envelope)*

Project Title

RFQu No. 001/2023

Email: bids@vicourts.org

RFQu SCHEDULE	DATES
1. Release of Request for Proposals	January 24, 2023
2. Request for questions and clarifications	February 3, 2023 @ 4:00P.M. AST
3. Judiciary's response to questions and/or clarifications	February 10, 2023 @ 4:00P.M. AST
3. Proposals Due	February 24, 2023
4. Notification of Intent to Award (Estimated)	March 3, 2023

I. GENERAL INVITATION

1.1 Purpose for this Request for Qualifications (“RFQu”)

The Office of Conflict Counsel and the Judiciary of the U.S. Virgin Islands (“The Judiciary”), through its Judicial Branch Administrative Office, invites the submission of Proposals for service as a Conflict Counsel on an as needed basis as described in the Scope of Work of this RFQu.

1.2 INTERNET ACCESS TO THIS RFQu

All materials related to the RFQu will be available on the Court’s website at www.vicourts.org. Click on the “For Vendors” link on the right-hand side of the web page.

In the event you do not have download capability, all materials pertaining to this RFQu may be obtained from the following locations:

**Supreme Court of the Virgin Islands
Division of Procurement
No. 161B Crown Bay
St. Thomas Virgin Islands 00802**

**Superior Court of the Virgin Islands
Procurement Division
Alexander A. Farrelly Justice Center
Veteran’s Drive
St. Thomas, Virgin Islands 00804**

**Superior Court of the Virgin Islands
Procurement Division
R.H. Amphlett Leader Justice Complex
9000 Estate Kingshill
St. Croix, Virgin Islands**

Any Respondent who chooses to download an RFQu solicitation instead of picking it up in person will be responsible for checking the website for clarifications and/or addenda. Failure to obtain clarifications and/or addenda from the website shall not relieve Respondent from being bound by any additional terms and conditions in the clarifications and/or addenda, or from considering additional information contained therein in preparing your Proposal. ***Note, there may be multiple clarifications and/or addenda. Any harm to the Respondent resulting from such failure shall not be valid grounds for a protest against award(s) made under the solicitation.***

Respondents are responsible for obtaining all RFQu materials. If Respondent chooses to download and print the RFQu document, the Respondent must contact the Procurement Division by emailing a legible copy of Respondents business card, referencing RFQu No. 001/2023 to procurement@vicourts.org or by calling the Procurement Office at (340) 774-

2237 Extension 6237 to register Respondent's company as a RFQu document holder, which will entitle Respondent to receive any future clarifications and/or addendum related to this RFQu.

1.4 ISSUING AND PROCURING OFFICES

This RFQu is being issued for the Office of Conflict Counsel and the Judiciary of the Virgin Islands by the Issuing Office listed below. The Issuing Office is the sole point of contact for this RFQu. Please refer all inquiries to:

Office of the Administrator of Courts
Division of Procurement
ATTN: Regina Petersen, Administrator of Courts
No. 8174 Subbase
P.O. Box 590
St. Thomas, USVI 00804
V: 340-774-2237; F: 340-693-4109
Email: procurement@vicourts.org
Web site: www.vicourts.org

From the issue date of this RFQu until a determination is made regarding the selection of an attorney/law firms, all contact concerning this RFQu must be made through the Issuing Office. Any violation of this condition is cause for Judiciary to reject a proposal. If it is later discovered that any violations have occurred, the Judiciary may reject the proposal.

II. SCOPE OF WORK

The Office of Conflict Counsel and Judiciary is in need of attorneys/law firms that are duly licensed to practice law in the Virgin Islands courts and are members in good standing of the Virgin Islands Bar to contract as Conflict Counsel for representation of indigent defendants in cases assigned by the Superior Court where the Office of the Territorial Public Defender is conflicted or is otherwise unable to ethically or otherwise provide such representation.

2.1 Description of Services

- A. Obligations of Conflict Counsel. Conflict Counsel accepts appointments as court-appointed counsel whenever there is a determined conflict with representation by the Office of the Territorial Public Defender and prior to appointments from any panel of private attorneys as otherwise provided herein throughout the trial stage of any appointed case. Appointment for appellate work shall be by separate appointment for the duration of any such appeal.

Conflict Counsel will be expected to provide full professional legal services in the following case types:

1. Criminal Matters
2. Juvenile Matters
3. Involuntary Commitment Proceedings
4. Post-Conviction Relief
5. Probation Violation
6. Appeals
7. Parental Termination Proceedings
8. Contempt Proceeding for Non-Payment of Child Support
9. Child Protection Act

2.2 Term of Contract

Any contract awarded pursuant to this RFQu solicitation shall be for a base contract period of one year or in accordance with and agreed upon extension to provide ongoing services.

III. GENERAL INFORMATION AND GUIDELINES

This section contains data and materials to be provided, general proposal format information, submission and delivery instructions.

3.1 Communication Between the Judiciary and Respondents

Submission of Questions or Requests for Clarifications

Respondents must communicate only with the Office of the Administrator of Courts, Division of Procurement. All questions or requests for clarification must be sent in writing to the Division of Procurement before the deadline indicated in this RFQu. Questions or request for clarifications can be submitted by email at procurement@vicourts.org. **All questions must be received no later than 4:00 p.m. Atlantic Standard Time, on February 3, 2023.** All correspondences must clearly indicate “Questions and Request for Clarification” about the RFQu and are “Not a Proposal” and must reference “Request for Qualifications (“RFQu”) number and title: Legal Services. No telephone calls will be accepted unless the questions are general in nature. **A Respondent that deviates from any of these restrictions may be subject to immediate disqualification from this RFQu process.**

Questions will be entertained during the period specified in the RFQu schedule. If it becomes necessary to revise any part of this RFQu, an addenda will be posted on the web site at www.vicourts.org.

Respondents must acknowledge, in writing, receipt of all addenda in their proposals. All official correspondences in regard to the specifications should be directed to and will be issued by the Procurement Division. Respondents are cautioned that the Judiciary assumes no responsibility for oral explanations or interpretations of solicitation documents.

3.2 Deadline and Procedures for Submitting Proposals

1. To be assured of consideration, Proposals must be received by the Judiciary no later than **February 24, 2023 at 4:00P.M. AST** at the email address set forth in this section.
2. The Judiciary may but is not required to accept Proposals that are not received by the date and time set forth in Section 3.2.1 above. Only the Administrator of Courts is empowered to determine whether to accept or return late Proposals. Failure by a messenger delivery service or printing service to meet the deadline will not excuse the Respondent from the deadline requirement. It is the Respondent's sole responsibility to ensure that the Proposal is received as required.
3. All proposals must be sent to bids@vicourts.org.

3.3 RFQu Information Resources

Respondents are solely responsible for acquiring the necessary information or materials. Information for preparing a response to this RFQu can be located at the following Judiciary's website: www.vicourts.org.

IV. PREPARING PROPOSALS: REQUIRED INFORMATION

4.1 Format of Proposals

Each proposal shall be prepared simply and economically, providing a straightforward, concise description of the proposer's capabilities to satisfy the conditions and requirements of this RFQu. To facilitate analysis of its proposal, the proposer shall prepare its proposal in accordance with the instructions outlined in this section. If the proposal deviates from these instructions, such proposal may, in the Judiciary's sole discretion, be rejected.

4.2 Required Content of Proposals

The proposal should consist of the following elements:

- 1. Mandatory Cover letter**

A cover letter, signed by the individual attorney or by an authorized representative of the law firm, shall include the name, address, telephone, fax number, e-mail address, and federal tax identification number of the Contractor.

The cover letter must certify that all of the information contained in the submission is accurate and complete. Inaccurate or incomplete information might affect the submission adversely. The letter shall contain a statement to the effect that it constitutes an offer to provide the services requested.

2. Executive Summary

Respondent must provide an executive summary which explains its understanding of the Judiciary's intent and objectives and how their Proposal would achieve those objectives.

3. Professional Qualifications and Specialized Experience of Respondent and Team Members who will be assigned to the project

A. Company Profile Information

Identify participants in Respondent's "Team." For example, if Respondent is a law firm or legal group then Respondent must identify or cause to be identified all participants involved, their respective ownership percentages, and summarize the role, degree of involvement, and experience of each participant separately.

B. Insurance License/Authority to do Business in the Territory

Respondent must be admitted to the practice of law in the United States Virgin Islands in good standing and physically present in the Territory to perform the services described in this RFQ in the Virgin Islands, for itself, or its partners. Provide copies of the following with the Proposal submission:

- 1) Tax Payer Identification form (W-9), attached in Attachment E
- 2) Current Certificate of Good Standing
- 3) Corporate Resolution identifying the person who is authorized to obligate the firm in response to this solicitation.
- 4) Proof of Worker's Compensation Coverage/Government Insurance Coverage
- 5) Professional Liability Insurance/malpractice of not less than \$1,000,000 each wrongful act, \$1,000,000 aggregate. Prior to contract award, the firm or individual will be required to submit

evidence of Certificate of Insurance in the amount specified by the Judiciary and listed as an additional insured

C. Professional Qualification and Specialized Experience and Local Availability of Committed Key Personnel

Respondent must provide a summary identifying who will be dedicated to the Services described in this RFQu. For each person identified, describe the following information:

- 1) Title and reporting responsibility.
- 2) Proof and Type of Admission to the Virgin Islands Bar
- 3) Certificate(s) of Good Standing
- 4) Base location (local facility, as applicable)
- 5) Resumes or practice profiles which describe their overall experience and expertise.

V. EVALUATING PROPOSALS

The Administrator of Courts will appoint an Evaluation Committee (“EC”), which will include the representatives from the Standing Committee on Indigent Defense and other representatives of other divisions of the Judiciary to review and evaluate the Proposals. The EC will consider the following:

1. Experience in the respective areas of specialized legal services including meeting the minimum experience requirements set forth in this RFQu.
2. Good Standing and reputation in the respective areas of practice.
3. Capacity and resources to meet contract obligations.
4. Discipline History

VI. SELECTION CRITERIA

After the Evaluation Committee (“EC”) completes its review of Proposals, it may submit to the Administrator of Courts a recommended short list of Respondents, or the EC may forego and submit a recommendation to select Respondents, or a recommendation to reject any or all Proposals.

Oral Presentations

If the EC submits a short list of Respondents for further review, then, in the sole discretion of the Administrator of Courts, those short-listed Respondents may be invited to appear before the Evaluation Committee for an oral presentation to clarify in more detail information what was submitted in Respondent's Proposal; and/or to ask Respondent to respond to additional questions. Afterwards, the Evaluation Committee will make a final evaluation, including a final ranking of the Respondents, and will submit a recommendation for one or more Respondent(s) to the Administrator of Courts.

If the EC makes a recommendation, the recommendation will be forwarded to the Administrator of Courts for authorization to enter into contract negotiations with the selected Respondent(s).

The Judiciary will require the selected Respondent to participate in contract negotiations. The Judiciary's requirement that the selected Respondent(s) negotiate is not a commitment by the Judiciary to award a contract. If the Judiciary determines that it is unable to reach an acceptable contract with the selected Respondent, including failure to agree on a fair and reasonable cost proposal for the Services or any other terms or conditions, the Administrator of Courts may terminate negotiations with the selected Respondent(s), and may continue to negotiate with any of the other qualified Respondents, until such time as the Judiciary has negotiated a contract meeting its needs.

The Judiciary reserves the right to terminate this RFQu solicitation at any stage if the Administrator of Courts determines this action to be in the Judiciary's best interests. The receipt of Proposals or other documents will in no way obligate the Judiciary to enter into any contract of any kind with any party.

VII. ADDITIONAL DETAILS OF THE RFQu PROCESS

The Judiciary of the Virgin Islands intends to use this RFQu and any amendments thereto and the selected respondent's proposal as the base documents forming the Contract between the Judiciary and the selected respondents. Consequently, prospective respondents are cautioned to carefully review the entire RFQu and to identify particular terms or conditions that may inhibit successful contract negotiations or contract performance. Respondents must identify the particular RFQu section(s) and prepare precise alternative language that they recommend be inserted in lieu of the Judiciary's language. Respondents are cautioned that the Judiciary is under no obligation to accept alternative language proposed.

- 7.1 **Failure to Negotiate Contract With Best Qualified Respondents:** If compensation, contract requirements, or contract documents cannot be agreed upon with the best qualified respondents, a written record stating the reasons therefore shall be placed in the file and the Procurement Division shall advise such respondents of the termination of negotiations which shall be confirmed by written notice within three (3) business days. Upon failure to

negotiate a contract with the best qualified respondents, the Procurement Division may enter into negotiations with the next most qualified respondents. If compensation, contract requirements, and contract documents can be agreed upon, then the contract shall be awarded to those respondents. If negotiations again fail, negotiations shall be terminated as provided above and negotiations may commence with the next most qualified respondents.

7.2 **Failure to Award Contract:** Should the Procurement Division be unable to negotiate a contract with any of the respondents initially selected as the best qualified respondents, offers may be re-solicited or additional respondents may be selected based on their original, acceptable submissions in the order of their respective qualification ranking and negotiations may continue in accordance with these rules until an agreement is reached and the contract awarded.

7.3 **Contract:** It is proposed that, if a contract is entered into as a result of successful negotiations, the respondents will be issued a standard Judiciary of the Virgin Islands contract for professional services and/or purchase order.

This agreement will contain the provisions shown in the sample document attached herein as Attachment A. Negotiations may be undertaken with firms whose proposals show them to be qualified, responsible, and capable of performing the work. The "Scope of Work," as negotiated, will be incorporated into the terms of the standard contract and purchase order. All or a portion of the products/services offered in the respondent's proposal may be incorporated into the final negotiated contract and/or purchase order. **(Note: Attachment A is a sample document only which may be amended through negotiation and is not required to be returned with your proposal.)**

7.4 **Rejection of Proposals:** The Judiciary reserves the right to reject proposals that contain material deviations from the requirements of this RFQU. It is understood that all proposals, whether rejected or not, will become part of the Judiciary's official file.

7.5 **Withdrawal of Proposals:** A proposal may be withdrawn at any time prior to the time specified as the closing time for acceptance of proposals.

However, no proposal shall be withdrawn or cancelled for a period of **forty-five (45) days** after closing time for acceptance of proposals, nor shall the successful respondents withdraw or cancel or modify his proposal, except at the request of the Judiciary.

7.6 **Revisions to the RFQu:** If revisions to the RFQu become necessary, an addendum will be provided on the court's website via www.vicourts.org. The information contained on this web site is current and accurate. It is the respondent's responsibility to check this site periodically to obtain any changes to the solicitation. Respondents must acknowledge all addendums in their proposal response. Respondents who do not have access to the internet should notify the issuing office. If the Judiciary determines that the due date for receipt of proposals does not permit adequate time for consideration of and response to

the addendum, the due date for receipt of proposals may be extended, at the discretion of Judiciary.

7.7 Prohibition on Communication with Staff: All communication relative to this procurement must be in writing to the Administrator of Courts. Only the Administrator of Courts, or his/her designee, or the Procurement Division has the authority to communicate with prospective Respondents regarding this RFQu.

7.8 Reservation of Rights: The Judiciary reserves the right to require respondents to clarify the terms and conditions of any response submitted. The Judiciary reserves the right to cancel or withdraw this RFQu without prior notice. The solicitation, acceptance or evaluation of responses to this RFQu does not commit the Judiciary to the award of a Contract or to pay any costs incurred in the preparation and submission of proposals in anticipation of a Contract. The Judiciary reserves the right to reject any or all proposals and to disregard any informality and/or irregularity in the proposal when, in its opinion, the best interest of the Judiciary will be served by such action.

The Judiciary reserves the right to award the Contract in whole or in part, if deemed to be in the best interest of the Judiciary. The Judiciary reserves the right to award all or part of any resultant contract to a single or to multiple Respondents. The Judiciary also reserves the right to waive informalities and minor irregularities in responses received; and to accept any portion of the response or all items proposed, if deemed in the best interest of the Judiciary.

The Judiciary reserves the right to request a Best and Final Offer (BAFO) from the contractor. The Judiciary may make adjustments, clarifications, scope revision, and other similar changes to the RFQu, which shall be formalized in the BAFO. Updated proposals may be requested from each respondents whose proposal has been deemed acceptable or potentially acceptable to the Judiciary. This step will be done in the form of a business letter sent from the Judiciary to the respondents requesting changes and the submission of an updated proposal.

The Judiciary's request for an updated proposal will describe changes that the Judiciary wishes to make to the RFQu, if any, as well as the specific identification of areas requiring clarification in the respondent's proposal. Respondents may be permitted to clarify or amend their proposals in the areas identified by the Judiciary.

The Judiciary makes no assurance that proposal clarifications will be requested and reserves the right to complete its evaluation and make a selection immediately after the initial evaluation. Consequently, Respondents are encouraged to submit an initial proposal that is clear and competitive.

7.9 Disqualification and Rejection of Respondents:

Any of the following causes may be considered as sufficient for the disqualification and rejections of a proposal:

1. Submission of more than one (1) proposal for the same work by an individual, firm, partnership or corporation under the same or different name. For purposes of this subparagraph, firms, partnerships or corporations under common control may be considered to be the same entity;
2. Evidence of collusion between or among the proposers;
3. Having defaulted on a previous contract with the Judiciary or other branches of the Virgin Islands Government;
4. Poor, defective or otherwise unsatisfactory performance of work for the Judiciary or other branches of the Virgin Islands Government, or any other party on prior projects which, in the Judiciary's judgment and sole discretion, raises doubts as to the respondent's ability to properly perform the work; or
5. Any other cause which, in the Judiciary's judgment and sole discretion, is sufficient to justify disqualification of the respondents or the rejection of its proposal.

7.10 **Use of Subcontractors:** The respondents must indicate if they plan to subcontract any part of the proposed scope of work. The respondents must identify each subcontractor by name, address, and telephone number and must thoroughly describe the work they will perform on the project.

7.11 **Persons Employed by both Judiciary and Respondents:** If any employee of the Judiciary is employed by the respondents, or is a subcontractor to the respondents, as of the due date for proposal submission, the respondents must identify all such persons by name, position held with the respondents, and position held with the Judiciary (including job title). In this section, the respondents must describe the responsibilities of such persons within the proposing organization. If, after review of this information by the Judiciary, it is determined that a conflict of interest exists or may exist, the respondents may be disqualified from further consideration in this procurement. If no such relationship exists, the respondents should so indicate.

Attachment A

OFFICE OF CONFLICT COUNSEL (JUDICIARY OF THE VIRGIN ISLANDS)

LEGAL SERVICES CONTRACT

This agreement (hereinafter “Agreement”) is made and entered into this _____ day of _____, 2022, between Virgin Islands Office of Conflict Counsel (“OCC”) by the Judicial Branch Administrative Office (“JBAO”), and _____, (“Conflict Attorney”).

WHEREAS, in 1973, (5 V.I.C. § 3521), the Office of the Public Defender was created by the Virgin Islands Legislature to provide representation to indigent persons charged with crimes in the Courts of the Virgin Islands; and

WHEREAS, pursuant to 5 V.I.C. § 3503(a) the Office of the Public Defender is required to accept and defend all indigent defendants referred to it by judges of the Superior Court except that judges may appoint not more than 15% of such cases from a panel of private attorneys maintained by the Superior Court; and

WHEREAS, the Office of the Public Defender is obligated to follow the Virgin Islands Rules of Professional Conduct (V.I. Supreme Rule 211) including conflicts of interest in representation of clients; and

WHEREAS, pursuant to Supreme Court Rule 210.5, the Standing Committee has responsibility to maintain and regulate the private panels of attorneys needed to provide legal representation to indigent defendants not provided by the Office of the Public Defender, has determined that satisfaction of those duties may better be facilitated by establishing alternate means of providing indigent defense representation, by establishing the Office of the Alternate Public Defender and/or engaging contracted conflict attorneys to provide representation in cases as provided by 5 V.I.C. § 3503(a); and

WHEREAS, the Standing Committee desires to procure the services of competent court-appointed conflict counsel to represent indigent persons in criminal actions, child protective cases, juvenile cases, civil commitment proceedings, postconviction relief cases, probation violations, parent/child terminations, appeals, and contempt proceeding; and

WHEREAS, the Standing Committee desires to enter into an Independent Services Contract with Contractor for representation of court-appointed cases assigned by the Superior Court where the Office of the Public Defender is conflicted or is otherwise unable to ethically or otherwise provide such representation.

ARTICLE I.

1.1 Obligations of Conflict Attorney. Conflict Attorney accepts appointments as court-appointed conflict counsel as needed on and between December 1, 2022, and December 31, 2023, for appointments from a panel of private attorneys in conflict cases appointed to by the Court and as otherwise provided herein throughout the trial stage of any such case. Appointment for appellate work shall be for the duration of any such appeal in the Superior Court and Supreme Court.

A. Criminal Matters. Conflict Attorney agrees to act as court-appointed conflict counsel for all persons charged with crimes in this the [St. Thomas/St. John] [St. Croix] district who are judged by the Superior Court or Magistrate Division thereof to be indigent persons qualified to receive counsel at Court expense pursuant to 5 V.I.C. § 3503(a), Supreme Court Rule 210 or other applicable legal provisions.

B. Juvenile Matters. Conflict Attorney agrees to act as court-appointed conflict counsel for all juveniles named in a petition filed in this Territory pursuant to the Virgin Islands law and/or for all persons who qualify for court appointed counsel at Court's expense pursuant to Virgin Islands law. Attorney agrees to act as conflict counsel for the Guardian Ad Litem if appointed by the Court pursuant to law.

C. Involuntary Commitment Proceedings. Conflict Attorney agrees to act as counsel in all civil commitment proceedings wherein the person named in a petition filed in the Territory for involuntary hospitalization qualified for court appointed counsel to be provided at The Standing Committee expense pursuant to the V.I. Code.

D. Post-Conviction Relief. Pursuant to law, Conflict Attorney agrees to act as court-appointed conflict counsel in any post-conviction relief case that may arise during the Attorney's contract and representation of the client in which the attorney is appointed to by the Court. If the petitioner is alleging ineffective assistance of counsel, new counsel will be appointed by the appropriate Court rather than the original counsel in the underlying case.

E. Probation Violation. Conflict Attorney agrees to act as court-appointed conflict counsel for all persons charged with a probation violation who are judged by the Superior Court or the Magistrate Division thereof to be indigent persons appointed to by the Court to receive counsel at Court expense.

F. Appeals. Conflict Attorney agrees to act as court-appointed conflict counsel in any appeal of a case for the duration of any such appeal in the Superior Court up until the filing of a Notice of Appeal with the Virgin Islands Supreme Court.

G. Termination Proceedings. Pursuant to applicable rule or law, Conflict Attorney agrees to act as court-appointed conflict counsel for any person determined by the Court to be indigent who is the defendant in a proceeding seeking termination of the parent/child relationship under Virgin Islands Statutes.

H. Contempt Proceeding for Non-Payment of Child Support. Conflict Attorney agrees to act as court-appointed conflict counsel for any person determined by the Court to be indigent who is the defendant in a contempt proceeding for non-payment of child support including proceedings.

I. Child Protection Act. Conflict Attorney agrees to act as court-appointed counsel for parents, child or Guardian Ad Litem in cases designated under the Virgin Islands law.

1.2 Temporary Absence of Appointed Contracted Conflict Attorney. In the event the appointed contracted Conflict Attorney is temporarily unavailable for any reason to perform his or her duties hereunder with respect to a particular appointment, for a reason such as, but not limited to, illness, vacation, or other prior legal obligation, it is the obligation of appointed contracted Conflict Attorney to arrange for and provide competent substitute legal counsel at Conflict Attorney's own expense, subject to the approval of the Court.

1.4 Conflicts of Interest. Conflict Attorney shall be required to inform the Court of any possible conflicts under the Virgin Islands Rules of Professional Conduct (Supreme Court Rule 211). If the Court decides that a conflict exists, the Conflict Attorney shall be excused from being appointed. The fact that the Conflict Attorney is acquainted with a victim or witness in the case or that a Conflict Attorney is acquainted with someone who has an unfavorable opinion of the defendant does not constitute a conflict. In the event a true conflict exists, the Conflict Attorney shall file a Motion to Withdraw with the Court requesting to appoint new counsel that is also under contract for court appointed conflict counsel or failing none from the private attorney panel on a rotating basis. Where a conflict is found by the Court to exist or the Court grants a defendant's request to be assigned a different appointed conflict public defender, the assigned Conflict Attorney is excused from the case.

1.5 Insurance. Conflict Attorney agrees to obtain and carry insurance, as set forth in Attachment "A" to this Agreement, in full force and effect for the duration of the contract term.

ARTICLE II.

2.1 Payment. The Court agrees to pay the Conflict Attorney at the rate of \$ _____.00 per hour or other contractual rate.

2.2 In order to meet professional standards in First Degree murder cases, it may be necessary for a second Conflict Attorney (second chair) to be employed in cases. The Conflict Attorney assigned to the case must make a request oral or written to the assigned Superior Court judge for second chair which application may be approved if, in the opinion of the Court such appointment is necessitated by the complexity of legal issues, anticipated length of trial, voluminous evidence, and any other factors that require additional Conflict Attorney time to provide an adequate defense of the accused. The second chair attorney may be an attorney from another panel selected in order to provide that attorney experience in representing murder cases or other serious felony matters.

In First Degree murder cases, the first chair Conflict Attorney shall be appointed and paid \$ _____.00 per hour and .55¢ per mile for necessary travel within the particular district.

2.3 Procedure for Payment. Before any payment is made to the Conflict Attorney for services rendered pursuant to this section, a claim is submitted to the Administrator of Courts before the last Wednesday of each month or at the closure of the case at the Conflict Attorney's discretion. All claims for fiscal year 2023 should be submitted by September 30, 2023. The claim shall state what services were rendered, the necessity therefore, and the time expended by the Conflict Attorney in order to be paid

accompanied by an affidavit signed by the Conflict Attorney. Payment to the Conflict Counsel shall be processed by the Administrator of Courts within a reasonable time.

A copy of the affidavit for payment will be sent by the Conflict Attorney to the Administrator of Courts. The affidavit on the JBAO approved form shall suffice. In the event the JBAO believes the Conflict Attorney's sworn affidavit does not list reasonable services rendered and/or reasonable time expended, the Administrator of Courts may make application to the Standing Committee or the Superior Court judge presiding over the case for determination of a reasonable rate of compensation for services and for direct expenses necessary for representation. Such affidavit and supporting materials shall not, however, contain material or references that would compromise attorney/client privilege and confidentiality.

Notwithstanding any terms and conditions of this Agreement to the contrary, in cases governed by this Paragraph 2.2, the Conflict Attorney may expend an amount not to exceed \$5,000 without prior Court approval for investigator and/or expert witness services provided that Conflict Attorney certifies that such expenditures were reasonable and necessary in submitting the claims to the JBAO.

2.4 Additional Services and Expenses. The compensation payable to the Conflict Attorney under Paragraphs 2.1 and 2.2 above includes all usual and ordinary costs involved in performing services by the Conflict Attorney herein and all necessary expenses of representations under Virgin Islands law, excluding investigator and expert witness fees and expenses.

However, JBAO shall reimburse the Conflict Attorney for additional extraordinary services, costs and expenses that are necessary and incurred by the Conflict Attorney in performing this Agreement provided that the attorney obtains a prior written order of the Court approving such extraordinary services, costs, and expenses at the Court's expense.

In cases other than those described in Paragraph 2.2, Attorney will be compensated at the rate of \$_____ per hour for necessary travel to and from hearings in the other district which are required by the Court as a result of a disqualification of the judge presiding, a change of venue, or the housing of an indigent court-appointed client outside of his or her district, or the representation of the client at a hearing or meeting, including but not limited to meetings with probation officers, or pre-sentence investigators.

Before payment is made to the attorney for extraordinary services, costs, and expenses the expenditures must be authorized by the Court. If the expenditures are authorized, the Conflict Attorney shall then submit before the last Wednesday of each month a sworn affidavit to the Court verifying the expenditures, and the necessity therefore. A copy of the affidavit for payment will be sent by the attorney to the Administrator of Courts. In the event the Board or AOC believes the Attorney's sworn affidavit does not list reasonable expenditures, the AOC may make application to the Standing Committee and to the judge of the Superior Court presiding over the case for determination of reasonable expenditures necessary for representation.

2.5 Records of Defending Attorneys. Pursuant to Rule 210 the Conflict Attorney shall keep appropriate records respecting each court appointed client whom he or she represents and shall submit an annual report to the JBAO and the Standing Committee, documenting the number of clients represented under this contract, the crimes involved and the expenditures, totaled by kind, made in carrying out the

responsibilities imposed by this 6 act. The Conflict Attorney shall use the form used by the JBAO. The JBAO and the Standing Committee reserves the right to terminate this contract if the Conflict Attorney fails to provide timely reports or is found to have provided inaccurate information.

2.6 Warranty of Fitness to Practice Law. Conflict Attorney warrants that he or she is duly licensed to practice law in the Virgin Islands courts and is a member in good standing of the Virgin Islands Bar and the Conflict Attorney will immediately notify JBAO and the Standing Committee in writing if a change in that status occurs during the term of this Agreement. The Conflict Attorney also warrants that he or she is competent and qualified to represent criminal defendants at all levels of proceedings called for in this Agreement. If at any time during the term of this Agreement, the Conflict Attorney is unable to practice law within the Virgin Islands, whether on a permanent, temporary or suspended basis, the JBAO and Standing Committee, in its sole and absolute discretion, may terminate this Agreement and have no additional obligations hereunder.

The Standing Committee and JBAO reserves the right to terminate this contract with the Conflict Attorney if either the judge of the Superior Court advises the Standing Committee or JBAO that the Conflict Attorney is providing inadequate representation under the contract.

2.7 Approval of Contract Conflict Attorneys. The Standing Committee reserves the right to approve or reject any attorney wishing to provide services under a court appointed indigent conflict counsel contract.

2.8 Substitution of Counsel. The Conflict Attorney may only substitute representation of an appointed client with another Conflict Attorney that has been contracted for services.

ARTICLE III.

3.1 Agreement Not a Fixed Fee Contract. This Agreement is not a “fixed fee contract” for provision of court-appointed conflict counsel services. The parties hereto have endeavored to assure that all indigent persons who apply for and receive legal services covered by this agreement will receive such services without undue limitation on the amount of time or expense required to provide the same. Each Conflict Attorney providing legal services under this agreement is required to devote such time and effort as is reasonably necessary to meet all local and federal requirements for effective assistance of counsel.

3.2 Assignment. Conflict Attorney may not assign, sub-contract or delegate his or her rights and duties hereunder to any person or entity without the prior written consent of the Board, which consent will not be unreasonably withheld. Any attorney seeking assignment shall agree to be bound by the terms of this Agreement.

3.3 Attorney Fees. In the event any party hereto initiates or defends any legal action or proceeding to enforce or interpret any of the terms of this Agreement, or to declare forfeiture or termination, the prevailing party in any such action or proceeding shall be entitled to recover 7 from the losing party its reasonable costs and attorney’s fees (including its reasonable costs and attorney’s fees on any appeal).

3.4 Special Services Provider. The parties agree that the Conflict Attorney is a special services provider for The Standing Committee and is not an employee or agent of the JBAO or the Standing

Committee. As a special services provider, the Conflict Attorney is not entitled to worker's compensation, health care insurance, retirement benefits or any other benefit of employment with JBAO or the Standing Committee otherwise available to JBAO employees. The JBAO and the Standing Committee shall have no supervisory control over the performance of this Agreement by Conflict Attorney or its employees.

The parties also agree that each Conflict Attorney providing services pursuant to this agreement is independent of every other Conflict Attorney providing such services and assumes no responsibility or liability for the services provided by any other attorney. Each Conflict Attorney providing services hereunder does so individually, not severally, and has no professional association, formal or informal, with any other attorney providing services to the Standing Committee.

3.5 Merger. This Agreement embodies the sole understanding of the parties. There are no other oral or written agreements outside of this Agreement. No modification, amendment or addition to this Agreement shall be effective unless agreed to by the parties in a written instrument duly executed by Conflict Attorney and the JBAO and Standing Committee.

3.6 Waiver. The failure of any party to insist upon strict performance of any of the obligations contained herein shall not be deemed a waiver of any rights or remedies that said party may have, and shall not be deemed a waiver of any subsequent breach in the performance of any of the terms and provisions contained herein by the same or any other person.

3.7 Third Party Beneficiary Rights. This Agreement is not intended to create, nor shall it be in any way interpreted or construed to create, any third-party beneficiary rights in any person not a party hereto unless otherwise expressly provided herein.

3.8 Captions and Headings. The captions and headings in this Agreement are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms and provisions contained herein.

3.9 Construction. No presumptions shall exist in favor of or against any party to this Agreement as a result of the drafting and preparation of this Agreement.

3.10 Venue and Governing Law. In the event an action is brought to enforce or interpret this Agreement, the parties submit to the exclusive jurisdiction of the courts of the Virgin Islands, and agree that venue for any such action shall be in respective district of Contractor in the Virgin Islands. The validity, performance and construction of this Agreement shall be governed by the laws of the Virgin Islands.

IN WITNESS WHEREOF, the parties have hereunder set their hands as of the day and year first above set forth.

(NAME)

Conflict Attorney

THE JUDICIAL BRANCH ADMINISTRATIVE
OFFICE

Regina Petersen, Administrator of Courts

ATTEST:

_____, Clerk

CERTIFICATE OF VERIFICATION

On this _____ day of _____, 2022, before me, the undersigned, a Notary Public in and for the Virgin Islands, personally appeared _____, known to me to be the person whose name is subscribed in the foregoing instrument, and acknowledged that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first written above.

Notary Public for the Virgin Islands-STT

Residing at: _____

Comm. Expires: _____

(seal)

Insurance

- A. Conflict Attorney, at his or her sole expense, shall procure and maintain in full force and effect insurance written by an insurance company or companies with AM Best rating(s) of A VIII or better. All insurance companies must be authorized to do business in the Virgin Islands. By requiring insurance herein, The Standing Committee does not represent that coverage and limits are necessarily adequate to protect Conflict Attorney, and such coverage and limits shall not be deemed as a limitation on Conflict Attorney's liability under the indemnities granted to The Standing Committee in this contract.
- B. Certificates of Insurance evidencing the coverages required herein shall be provided to The Standing Committee prior to the start date of the project. All certificates must be signed by an authorized representative of Conflict Attorney's insurance carrier and must state that the issuing company, its agents, or representatives will provide The Standing Committee thirty (30) days written notice prior to any policies being canceled. Renewal certificates must be provided to The Standing Committee within thirty (30) days after the effective date of the renewal.
- C. Certificates shall be mailed to:
- The Administrator of the Courts
No. 61B Crown Bay
St. Thomas, VI 00804
- D. Certificates must evidence the following minimum coverages: 1. Professional Liability insurance with limits of not less than \$1,000,000 per claim and \$1,000,000 aggregate. If the insurance required by this section is obtained through a "Claims Made" policy, this coverage or its replacement shall have a retroactive date of not later than the inception of this Agreement.

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

▶ Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type.
See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
2 Business name/disregarded entity name, if different from above	
3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____ <i>Note:</i> Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. <input type="checkbox"/> Other (see instructions) ▶ _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <small>(Applies to accounts maintained outside the U.S.)</small>
5 Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
6 City, state, and ZIP code	
7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number					
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> <td style="width: 5%; text-align: center;">-</td> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> <td style="width: 5%; text-align: center;">-</td> <td style="width: 40%; border: 1px solid black; height: 20px;"></td> </tr> </table>		-		-	
	-		-		
OR					
Employer identification number					
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%; border: 1px solid black; height: 20px;"></td> <td style="width: 5%; text-align: center;">-</td> <td style="width: 90%; border: 1px solid black; height: 20px;"></td> </tr> </table>		-			
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Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ▶	Date ▶
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)
Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.