

Dear Senators LODGE, Lee, Burgoyne, and
Representatives LUKER, Malek, Gannon:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the State Public Defense Commission:

IDAPA 61.01.02 - Rules Governing Uniform Data Reporting Requirements and Forms for Defending
Attorney Annual Reports (Docket No. 61-0102-1801);

IDAPA 61.01.03 - Rules Governing Contracts and Core Requirements for Contracts Between
Counties and Private Attorneys for the Provision of Indigent Defense Services - Proposed
Rule (Docket No. 61-0103-1801).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 10/09/2018. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/06/2018.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Judiciary & Rules Committee and the House Judiciary, Rules & Administration Committee

FROM: Principal Legislative Research Analyst - Ryan Bush

DATE: September 19, 2018

SUBJECT: State Public Defense Commission

IDAPA 61.01.02 - Rules Governing Uniform Data Reporting Requirements and Forms for Defending Attorney Annual Reports (Docket No. 61-0102-1801)

IDAPA 61.01.03 - Rules Governing Contracts and Core Requirements for Contracts Between Counties and Private Attorneys for the Provision of Indigent Defense Services - Proposed Rule (Docket No. 61-0103-1801)

1. IDAPA 61.01.02

Summary and Stated Reasons for the Rule

The State Public Defense Commission submits notice of proposed rulemaking at IDAPA 61.01.02 - Rules Governing Uniform Data Reporting Requirements and Forms for Defending Attorney Annual Reports. The proposed rule provides requirements and procedures for the annual report submitted by defending attorneys in Idaho. Specifically, the rule does the following:

- (1) Lists the entities required to report and exceptions;
- (2) Provides for the required case information including number and types of cases, method of resolution, and case outcomes;
- (3) Requires reporting of expenditures related to indigent defense services;
- (4) Provides for the reporting cycle including form availability and due date;
- (5) Provides procedures for the completion and submission of the annual report; and
- (6) Provides penalties for failure to submit a report and for submission of fraudulent information.

Negotiated Rulemaking / Fiscal Impact

The Commission states that negotiated rulemaking was conducted and that notice was published in the April edition of the Idaho Administrative Bulletin. Public hearings are scheduled throughout Idaho in October. There is no fiscal impact associated with this rulemaking.

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
www.legislature.idaho.gov

Statutory Authority

The proposed rule appears to be within the authority granted to the Commission in Section 19-850, Idaho Code.

2. IDAPA 61.01.03

Summary and Stated Reasons for the Rule

The State Public Defense Commission submits notice of proposed rulemaking at IDAPA 61.01.03 - Rules Governing Contracts and Core Requirements for Contracts Between Counties and Private Attorneys for the Provision of Indigent Defense Services. The proposed rule provides requirements related to model contracts between counties and private attorneys who provide indigent defense services. Specifically, this rule does the following:

- (1) Lists core terms that are required in the contract including compensation, scope, conflicts of interest, experience requirements, and performance requirements;
- (2) Requires the contractor to maintain certain cost records for a specified period of time;
- (3) Provides that all signed contracts shall be sent to the Commission within thirty days of ratification; and
- (4) Provides for the submission of certain information to the contracting authority such as information on each person providing services and operational expenses.

Negotiated Rulemaking / Fiscal Impact

The Commission states that negotiated rulemaking was conducted and that notice was published in the April edition of the Idaho Administrative Bulletin. Public hearings are scheduled throughout Idaho in October. There is no fiscal impact associated with this rulemaking.

Statutory Authority

The proposed rule appears to be within the authority granted to the Commission in Section 19-850, Idaho Code.

cc: State Public Defense Commission
Kimberly Simmons

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules must be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION

61.01.02 – RULES GOVERNING UNIFORM DATA REPORTING REQUIREMENTS AND FORMS FOR DEFENDING ATTORNEY ANNUAL REPORTS

DOCKET NO. 61-0102-1801 (NEW CHAPTER)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 19-850(1)(a)(ii), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

PUBLIC HEARINGS	
Monday, October 15, 2018 5:00 p.m. (MDT) Twin Falls	Tuesday, October 16, 2018 5:00 p.m. (MDT) Idaho Falls
Twin Falls County Administration Bldg. Planning and Zoning Conference Room 630 Addison Avenue West Twin Falls, ID 83301	Residence Inn Idaho Falls Taylor Crossing West 635 West Broadway Idaho Falls, ID 83402
Wednesday, October 17, 2018 5:00 p.m. (MDT) Pocatello	Monday, October 22, 2018 4:00 p.m. (PDT) Lewiston
Idaho State University Pond Building – Wood River Room 921 South 8th Avenue Pocatello, ID 83209	Red Lion Hotel Lewiston Port 3 Room 621 21st Street Lewiston, ID 83501
Tuesday, October 23, 2018 4:00 p.m. (PDT) Coeur d’Alene	Wednesday, October 24, 2018 4:00 p.m. (MDT) Nampa
Red Lion Templin Hotel Redhead Room 414 East First Avenue Post Falls, ID 83854	Nampa Civic Center Pacific Source Room 311 3rd Street, South Nampa, ID 83651
Thursday, October 25, 2018 - 4:00 p.m. (MDT) Boise	
Water Center Building – 6th Floor Conference Room 602B-D 322 E. Front Street Boise, ID 83702	

The hearing sites will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Idaho Code 19-850(1)(a)(ii) requires the PDC to promulgate rules related to uniform data reporting requirements and model forms for the annual reports submitted pursuant to Idaho Code 19-864 which shall include, but not be

limited to, caseload, workload and expenditures. The purpose is to support the PDC's mission to improve indigent defense delivery services in Idaho to ensure constitutional representation of Idaho's indigent defendants.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

There is no fee or charge imposed or increased with this rule.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There should be no direct impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the April 4, 2018, Idaho Administrative Bulletin, [Vol. 18-4, page 84](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

There are no documents incorporated by reference into this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kimberly Simmons, Executive Director at (208) 332-1735.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before November 9, 2018.

DATED this 1st day of August, 2018.

Kimberly Simmons, Executive Director
State Public Defense Commission
816 W. Bannock St., Suite 201
Boise, ID 83702
(208) 332-1735

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 61-0102-1801
(New Chapter)

IDAPA 61
TITLE 01
CHAPTER 02

IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION

61.01.02 – RULES GOVERNING UNIFORM DATA REPORTING REQUIREMENTS AND FORMS FOR DEFENDING ATTORNEY ANNUAL REPORTS

000. LEGAL AUTHORITY.

Section 19-850 (1)(a)(ii), Idaho Code, gives the State Public Defense Commission (PDC) authority to promulgate rules establishing uniform data reporting requirements and model forms for the Annual Reports submitted pursuant to section 19-864, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA, Title 01, Chapter 02, “Rules Governing Uniform Data Reporting Requirements and Forms for Defending Attorney Annual Reports.” ()

02. Scope. These rules contain the provisions of uniform data collection of Idaho’s defending attorneys and establish the procedures by which defending attorneys shall report data to the PDC. ()

002. WRITTEN INTERPRETATIONS.

In accordance with section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretation of the rules of this chapter, or to compliance with the rules of this chapter. Any such documents are available for public inspection and copying at the PDC’s office. ()

003. ADMINISTRATIVE APPEALS.

The PDC’s determination to set standards for defending attorneys is an exercise of its duty to responsibly and prudently implement a system to improve the delivery of trial-level indigent defense services. Nevertheless, unless otherwise stated, determinations made by the PDC are subject to administrative appeal under IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” ()

004. INCORPORATION BY REFERENCE.

IDAPA 61.01.08, “Rules Governing the Administration of Idaho’s Indigent Defense Delivery Systems – Rule Definitions” is incorporated into this Chapter. ()

005. OFFICE—OFFICE HOURS—MAILING AND STREET ADDRESS—TELEPHONE—INTERNET WEBSITE.

The location and mailing address of the PDC is 816 West Bannock Street, Suite 201, Boise, Idaho 83702. The offices are open daily from 9 a.m. to 5 p.m., except Saturday, Sunday, legal holidays, and when closed because staffing levels do not permit operation. The PDC’s telephone number is (208) 332-1735 and the facsimile number is (208) 364-6147. The PDC’s official website is: <https://pdc.idaho.gov>. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

This agency operates pursuant to the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. ()

007 – 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.

Refer to IDAPA 61.01.08, “Rules Governing the Administration of Idaho’s Indigent Defense Delivery Systems – Rule Definitions.” for definitions of the terms and abbreviations used in this Rule. ()

011 – 019. (RESERVED)

020. APPLICATION OF REPORTING REQUIREMENTS.

In accordance with section 19-864, Idaho Code, Indigent Defense Providers and any defending attorney whose information is not otherwise included in a report from an Indigent Service Provider shall submit an Annual Report to the PDC, the board of county commissioners, and the appropriate administrative district judge in conformance with the rules promulgated pursuant to section 19-850(1)(a)(ii), Idaho Code. ()

01. Entities Required to Report. All Indigent Defense Providers and defending attorneys shall be included in an Annual Report, but not all defending attorneys must submit a report. The following entities or individuals must submit an Annual Report: ()

- a. Each Chief Defender for an institutional public defense office. ()
- b. Each Chief Defender for a joint institutional public defense office. ()
- c. Each Indigent Defense Provider under contract to provide indigent defense services. ()
- d. Each attorney appointed at public expense to represent an indigent person. ()

02. Exceptions to Reporting Requirements. The following are exceptions to the entities required to report: ()

- a. If an Indigent Defense Provider is a law firm, only one Annual Report is required for the firm. ()
- b. An attorney, appointed at public expense by the court and not under contract to provide indigent defense services for the county in which she was appointed, who handles fewer than ten (10) indigent defense cases in a fiscal year, may receive an exception to the reporting requirement. The attorney must contact the PDC, who may waive the reporting requirement if an alternative method of fulfilling the reporting requirements can be established. ()

021. REPORTING REQUIREMENTS.

Information to be included in the Annual Report. ()

01. Case Information. Each Annual Report for the previous fiscal year shall include for each defending attorney the following: ()

- a. The number of cases handled; ()
- b. The types of cases handled; ()
- c. The method of resolution of each case handled (i.e., plea, dismissal, found guilty at trial, etc.); and ()
- d. Case outcomes. ()

02. Continuing Legal Education Information. Each Annual Report shall contain each defending attorney's Continuing Legal Education hours as reported to the Idaho State Bar (ISB) for the previous fiscal year. The Annual Report shall be accompanied by one MCLE report from the ISB for each defending attorney. If the reporting period began during the previous fiscal year, an MCLE report for the entirety of the previous fiscal year must be sent. An attorney may have to request this information from the ISB. ()

03. Expenditure Information. Each Annual Report shall contain expenditures related to indigent defense services. Expenditures related to indigent defense services include, but are not limited to: ()

- a. Investigations; ()

- b. Expert witnesses; ()
- c. Interpreters; ()
- d. Mental and physical health examinations; ()
- e. Medical records; ()
- f. Polygraph examinations; ()
- g. Exhibits for trial demonstrations; ()
- f. Scientific tests; ()
- g. Extraordinary travel expenses; ()
- h. Transcripts; ()
- i. Discovery costs. ()

04. Support Staff. Each Annual Report shall contain a comprehensive listing of support staff, including investigators, employed by an Indigent Service Provider or a defending attorney. ()

05. Method of Data Collection. Each Annual Report shall contain the method of data collection utilized by the Reporter to obtain the requested information, such as the name of a Case Management System or software program. ()

06. Attorney Experience. Each Annual Report shall contain a brief description of each defending attorney's experience, including years of experience. ()

022. REPORTING CYCLE.

The PDC shall conduct the reporting cycle in accordance with Section 19-864, Idaho Code, and the following schedule so far as it does not conflict with Idaho Code: ()

01. Form Availability. The PDC shall make the Annual Report form available by July 1 each year for the subsequent fiscal year (i.e., July 1, 2019 for the Annual Report due November 1, 2020). ()

02. Purpose. The data collected will inform the PDC on how to improve client representation, justify budget and resources, and recommend changes to indigent defense system practices and policies. ()

03. Reporting Period. The Annual Report shall reflect the fiscal year immediately prior to the due date. ()

04. Due Date. The Annual Report shall be delivered to the PDC on or before November 1 of each year. ()

023. APPLICATION PROCEDURE.

The Annual Report shall be completed and submitted according to these rules. ()

01. Forms. A Reporter shall file the appropriate fiscal year form supplied by the PDC and any other requested documents, both of which shall have original or digital signatures. ()

02. Method of Delivery. The Annual Report shall be submitted to the PDC via mail, email, or facsimile. ()

03. Review. A Reporter may review the Annual Report with the PDC staff prior to submitting the

Annual Report to ensure it meets the PDC's criteria. ()

04. Incomplete Annual Report. Incomplete Annual Reports will be rejected by the PDC unless the Reporter can provide a reasonable explanation as to why the Annual Report is incomplete. Incomplete reports will be considered not submitted to the satisfaction of the Commission, which could prohibit the disbursement of the county's Indigent Defense Grant Funds. ()

05. Due Date. The Annual Report shall be delivered to the PDC on or before November 1 of each year. ()

024. EXPLANATION OF DATA NOT TRACKED.
Any data which should be included in the Annual Report but was not tracked during the fiscal year must be reported to the PDC along with an explanation addressing why the data was not tracked. If the PDC determines a failure to track data is justifiable (i.e. non-willful), the disbursement of the county's Indigent Defense Grant Funds will not necessarily be prohibited. ()

025. FAILURE TO SUBMIT AN ANNUAL REPORT.
Any defending attorney who fails to submit an Annual Report or fails to be included in an Annual Report may be removed from the public defense roster, as outlined in IDAPA 61.01.06.026. ()

026. FRAUDULENT INFORMATION.
Any Reporter who includes fraudulent information in the Annual Report is subject to enforcement as outlined in IDAPA 61.01.06.026. ()

027 – 999. (RESERVED)

IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION

**61.01.03 – RULES GOVERNING CONTRACTS AND CORE REQUIREMENTS
FOR CONTRACTS BETWEEN COUNTIES AND PRIVATE ATTORNEYS
FOR THE PROVISION OF INDIGENT DEFENSE SERVICES**

DOCKET NO. 61-0103-1801 (NEW CHAPTER)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 19-850(1)(a)(iii), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

PUBLIC HEARINGS	
Monday, October 15, 2018 5:00 p.m. (MDT) Twin Falls	Tuesday, October 16, 2018 5:00 p.m. (MDT) Idaho Falls
Twin Falls County Administration Bldg. Planning and Zoning Conference Room 630 Addison Avenue West Twin Falls, ID 83301	Residence Inn Idaho Falls Taylor Crossing West 635 West Broadway Idaho Falls, ID 83402
Wednesday, October 17, 2018 5:00 p.m. (MDT) Pocatello	Monday, October 22, 2018 4:00 p.m. (PDT) Lewiston
Idaho State University Pond Building – Wood River Room 921 South 8th Avenue Pocatello, ID 83209	Red Lion Hotel Lewiston Port 3 Room 621 21st Street Lewiston, ID 83501
Tuesday, October 23, 2018 4:00 p.m. (PDT) Coeur d’Alene	Wednesday, October 24, 2018 4:00 p.m. (MDT) Nampa
Red Lion Templin Hotel Redhead Room 414 East First Avenue Post Falls, ID 83854	Nampa Civic Center Pacific Source Room 311 3rd Street, South Nampa, ID 83651
Thursday, October 25, 2018 - 4:00 p.m. (MDT) Boise	
Water Center Building – 6th Floor Conference Room 602B-D 322 E. Front Street Boise, ID 83702	

The hearing sites will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Section 19-850(1)(a)(iii), Idaho Code, requires the PDC to promulgate rules related to model contracts and core requirements for contracts between counties and private attorneys for the provision of indigent defense services. These services include, but not be limited to, compliance with indigent defense standards. The purpose is to support the PDC's mission to improve indigent defense delivery services in Idaho to ensure constitutional representation of Idaho's indigent defendants.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

There is no fee or charge imposed or increased with this rule.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

This rule will not have any direct impact on the general fund, however, there is the possibility of a future indirect impact as follows: changes to county contracts as a result of this rulemaking may require additional monies in order to comply. Due to the PDC's duty to distribute funding to assist the counties with compliance, the PDC may seek additional appropriations to cover these increases.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the April 4, 2018, Idaho Administrative Bulletin, [Vol. 18-4, page 85](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

There are no documents incorporated by reference into this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kimberly Simmons, Executive Director at (208) 332-1735.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before November 9, 2018.

DATED this 1st day of August, 2018.

Kimberly Simmons, Executive Director
State Public Defense Commission
816 W. Bannock St., Suite 201
Boise, ID 83702
(208) 332-1735

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 61-0103-1801
(New Chapter)

IDAPA 61
TITLE 01
CHAPTER 03

**61.01.03 – RULES GOVERNING CONTRACTS AND CORE REQUIREMENTS
FOR CONTRACTS BETWEEN COUNTIES AND PRIVATE ATTORNEYS
FOR THE PROVISION OF INDIGENT DEFENSE SERVICES**

000. LEGAL AUTHORITY.

Section 19-850(1)(a)(iii), Idaho Code, gives the State Public Defense Commission (PDC) authority to promulgate rules regarding model contracts and core requirements for contracts between counties and private attorneys for the provision of indigent defense services. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 61, Title 01, Chapter 03, “Rules Governing Contracts and Core Requirements for Contracts Between Counties and Private Attorneys for the Provision of Indigent Defense Services.” ()

02. Scope. These rules establish the standards and guidelines for contracts between counties and private attorneys for the provision of indigent defense services. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretation of the rules of this chapter, or to compliance with the rules of this chapter. Any such documents are available for public inspection and copying at the PDC’s office. ()

003. ADMINISTRATIVE APPEALS.

The PDC’s determination to create rules governing contracts and core requirements for contracts between counties and private attorneys for the provision of indigent services is an exercise of its duty to responsibly and prudently implement a system to improve the delivery of trial level indigent defense services. Nevertheless, unless otherwise stated, determinations made by the PDC are subject to administrative appeal under IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” ()

004. INCORPORATION BY REFERENCE.

IDAPA 61.01.08, “Rules Governing the Administration of Idaho’s Indigent Defense Delivery Systems – Rule Definitions,” is incorporated into this Chapter. ()

005. OFFICE – OFFICE HOURS – MAILING AND STREET ADDRESSES – TELEPHONE – INTERNET WEBSITE.

The location and mailing address of the PDC is 816 West Bannock Street, Suite 201, Boise, Idaho 83702. The offices are open daily from 9 a.m. to 5 p.m., except Saturday, Sunday, legal holidays, and when closed because staffing levels do not permit operation. The PDC’s telephone number is (208) 332-1735 and the facsimile number is (208) 364-6147. The PDC’s official website is: <https://pdc.idaho.gov>. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

The PDC operates pursuant to the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. ()

007. – 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.

Refer to IDAPA 61.01.08, “Rules Governing the Administration of Idaho’s Indigent Defense Delivery Systems — Rule Definitions” for definitions of the terms and abbreviations used in this Rule. ()

011. – 019. (RESERVED)

020. CORE TERMS.

If a Contracting Authority elects to provide for the representation of indigent persons and other individuals who are entitled to be represented by an attorney at public expense by contracting with a defending attorney, as provided under Section 19-859(4), Idaho Code, each contract between the parties shall include the following: ()

- 01. Underlying Bases.** The contract shall include a term explaining: ()
 - a.** The Contracting Authority’s statutorily mandated responsibility to provide public defender services. ()
 - b.** The Contracting Authority’s desire to have legal services performed for individuals entitled to representation at public expense, provided by the Contractor. ()
- 02. Parties.** The contract shall identify the Contracting Authority and the Contractor. ()
- 03. Term of the Contract.** The contract shall specify the term of the contract, including a provision for renewal and for termination by either party. The contract should have a clear start date and end date. ()
- 04. Compensation.** The contract shall have a term setting the monetary rate at which the Contractor will be compensated for legal services rendered. ()
- 05. Independent Contractor.** The contract shall have a term explaining that the Contractor is an independent contractor for all services rendered pursuant to the contract. ()
- 06. Scope of the Contract.** The contract shall establish the case types to be handled pursuant to the contract. ()
- 07. Conflicts of Interest.** The contract shall include a provision ensuring the contractor does not provide representation to defendants when doing so would involve a conflict of interest. ()
- 08. Training Requirements.** The contract shall require each defending attorney providing services pursuant to the contract to participate in regular training programs on criminal defense law, including a minimum of seven (7) hours of continuing legal education annually in areas relating to their public defense practice, as required by the most recent edition of “Standards for Defending Attorneys.” ()
- 09. Experience Requirements.** Each Defending Attorney providing services pursuant to the contract shall:
 - a.** Meet the qualification and training requirements set forth in the most recent edition of “Standards for Defending Attorneys” incorporated by reference in IDAPA 61.01.08; and ()
 - b.** Satisfy the minimum requirements for practicing law in Idaho as determined by the Idaho Supreme Court; and ()
 - c.** Be familiar with the statutes, court rules, constitutional provisions, and case law relevant to their practice area; and ()
 - d.** Be familiar with the Idaho Rules of Professional Conduct; and ()
 - e.** Be familiar with the consequences of a conviction or adjudication, including possible immigration consequences and the possibility of civil commitment proceedings based on a criminal conviction; and ()
 - f.** Be familiar with mental health issues and be able to identify the need to obtain expert services. ()

- 10. Performance Requirements.** The contract shall require the contractor to do the following: ()
- a.** Make reasonable efforts to provide the services and comply with the requirements of the Contract. ()
 - b.** Utilize adequate support staff to render the necessary competent assistance of counsel required under the contract. ()
 - c.** Contact all clients within a specified amount of time from notification of case assignment. The amount of time should take into account the requirements of providing constitutional representation and the ability of the contractor to meet such requirement considering factors like travel time and the ability to engage in such communication. ()
 - d.** Abide by PDC standards as set forth in the most recent edition of “Standards for Defending Attorneys.” ()

021. ESTABLISHMENT AND MAINTENANCE OF RECORDS.

- 01. Costs of Services Records.** The contract shall require the Contractor to maintain records, including personnel, property, financial, and programmatic records, which reflect costs of services performed under the contract. ()
- 02. Costs of Subcontract and Personal Service Contract Records.** Each contract shall require the Contractor to maintain records which sufficiently and properly reflect all direct and indirect costs of any subcontracts or personal service contracts. ()
- 03. Duration of Record Keeping.** Each contract shall require the Contractor to maintain records for a specified period of time after termination of the contract, unless permission to destroy records before that time period is granted by the Contracting Authority. ()
- 04. Copies.** A copy of every signed contract between a Contracting Authority and an Indigent Defense Provider shall be sent to the PDC by the Contracting Authority within thirty (30) days of ratification. ()

022. REPORTS AND INSPECTIONS.

- Each contract shall require the Contractor to submit to the Contracting Authority the following: ()
- 01. Name.** The name of each person who provides services under the contract. ()
 - 02. Position.** The position of each person who provides services under the contract. ()
 - 03. Salary.** The salary for each person who provides services under the contract, including support staff. ()
 - 04. Annual Report.** An Annual Report, as set forth in Section 19-864, Idaho Code and IDAPA 61.01.02. ()
 - 05. Expenditure Report.** An expenditure report for operational expenses for each month of the prior fiscal year. ()
 - 06. Written Notification.** Immediate written notification in the case that a complaint is lodged with the Idaho State Bar, which has resulted in reprimand, suspension, or disbarment of the Indigent Defense Provider, or any attorney who is a member of the Indigent Defense Provider’s staff or working for the Indigent Defense Provider. ()
 - 07. Materials.** Materials necessary to verify compliance with all terms of the contract. ()

023. – 999. (RESERVED)