



Request for Proposal

For

Tribal Court Prosecutor

Open Date: January 11, 2021

Closing Date: February 10, 2021

Burns Paiute Tribe

100 Pasigo St.

Burns, OR 97720

INTRODUCTION:

The Constitution and Bylaws of the Burns Paiute Colony was adopted on May 16, 1968. The Constitution and Bylaws created the General Council, a body consisting of all qualified voters (i.e., tribal members 18 years of age or older who live on the reservation or are absentee voters). The General Council meets twice a year for deliberation and voting on matters of importance.

The General Council also nominates and elects a seven-person tribal council to handle the day-to-day affairs of the tribe. The tribal council meets several times a month, and council members serve three-year terms. The tribal council was created by an amendment to the Constitution and Bylaws in 1988; the council replaced a five-member business council. The council consists of a chair, vice-chair, secretary, sergeant at arms, and three members at large.

SCOPE OF WORK:

The Tribe requests proposals from individual attorneys and law firms interested in serving as the Tribe's Prosecutor on a part-time, contractual basis, for a two or three-year term beginning no later than March 1, 2021 (possibly earlier upon the mutual agreement of the parties). The Prosecutor will handle criminal cases, Indian Child Welfare cases, and certain other civil matters in the Burns Paiute Tribal Court ("Court"). The Tribe anticipates that the workload will require, on average, approximately 8 to 10 hours of legal services per month, although this could vary depending on the number and nature of cases being handled at any given time. (Travel time was not included in this estimate. The proposer should estimate travel time per their own situation.)

The Court is located on the Burns Paiute Reservation in Burns, Oregon. The Court was established by Article X of the Tribe's Constitution and operates in accordance with the Tribe's Judiciary Act. A Court of Appeals handles appeals from the Tribal Court. All judges are law trained. The Tribe directly employs a part-time Court Administrative Clerk. All attorneys appearing before the Court must be admitted to practice in the Burns Paiute Tribal Court. Court is currently held one day per month, typically on the third Friday of the month.

The Prosecutor's contract will be managed by the Tribal Council, but the Prosecutor will operate generally independently, with appropriate respect for the Prosecutor's prosecutorial discretion. The Tribe requests proposals from qualified individuals interested in serving as the Tribe's Prosecutor on a part-time, contractual basis, for a two-year term beginning no later than March 1, 2021 (possibly earlier upon the mutual agreement of the parties).

The successful respondent will, in accordance with the highest legal, ethical and professional standards, provide at the direction of designated Tribal officials and staff, prosecutorial services including but not limited to the following services:

- 1) Represent the Tribe as its Prosecutor in criminal cases, Indian Child Welfare cases, and certain other civil cases (e.g., forfeiture cases), to enforce the Tribe's laws. ☐ Appear in court for all related court proceedings.
- 2) Engage in or lead pre-trial investigations.
- 3) Evaluate and research cases, decide whether to charge and/or appeal cases, and prepare and prosecute all cases the Prosecutor decides to file.
- 4) Prepare and file appropriate pleadings and motions of good quality in Tribal Court. ☐ Ensure compliance with all judgments and sentences of the Tribal Court and the procedural requirements of the Tribe's laws.
- 5) Advise the Tribal Police regarding the handling of criminal cases (including on nights/weekends/holidays as necessary).
- 6) Advise the Tribe's Indian Child Welfare department regarding the handling of Indian Child Welfare cases (including on nights/weekends/holidays as necessary).
- 7) Recommend to the Tribal Attorney appropriate revisions and amendments to the Tribe's laws and policies relevant to the types of cases the Prosecutor handles.
- 8) Meet with the Tribal Attorney and Tribal Council when requested. ☐ Prepare reports as assigned, including periodic summaries of accomplishments, ongoing challenges, and recommendations, as well as prospective plans and budgets.
- 9) Comply with all applicable laws, policies, rules, procedures, and professional and ethical standards.

This list of services is intended as a general guide and is not intended to be a complete list of all work necessary to provide the requested services. The successful proposer will have a demonstrated knowledge and expertise to serve the unique needs of the Tribe.

To be eligible to respond to this RFP, the respondent(s) must demonstrate that s/he, or the principals assigned to the services, have previously successfully performed services comparable to those listed in the Scope of Services section of this RFP.

QUALIFICATIONS AND EXPERIENCE:

The ideal respondent will have the following qualifications and experience:

1. Be a licensed attorney in good standing with a state bar association, and able to be admitted to practice in the Tribal Court on the first date the Tribal Court is in session following execution of an agreement for professional services.
2. Possess and consistently demonstrate excellent legal research, writing, and oral communication skills.
3. Have prior experience in handling Indian Child Welfare cases and/or criminal cases.
4. Be a person of good moral character, with no prior felony convictions in any jurisdiction. ☐ Have experience working with tribal governments and/or tribal members, and knowledge of federal Indian law.
5. Be familiar with Tribal laws, Tribal Court procedures, and rules of evidence.
6. Can work efficiently, effectively, and in a professional manner, with Tribal Court judges and staff, the Tribe's Legal Department, the Tribal Police, the Tribe's Indian Child Welfare department, and the Tribal Council.
7. Can establish and maintain professional relationships with individuals of varying socioeconomic and cultural backgrounds, and with co-workers at all levels and counterparts in other jurisdictions.
8. Exercise good, independent judgment and common sense, and effectively carry out legal actions.
9. Possess and consistently demonstrate awareness of, and sensitivity to, the Tribe's culture, values, and interests, and take actions that are always in the Tribe's best interests.

Enrolled members of the Burns Paiute Tribe and other federally recognized Indian tribes, and local attorneys, are especially encouraged to submit proposals.

FEES:

All proposals must clearly set forth a comprehensive fee structure. Respondents may propose a flat rate, an hourly rate, or a combination of the two. For example, it may be desirable to have a flat rate for basic prosecutorial services, plus an hourly rate for special projects. Please keep in mind that the proposed fees would apply for the contemplated three-year term of the contract. Any other expenses that a respondent intends to charge to the Tribe must be clearly set forth as well.

CONFLICTS:

Each respondent must provide a conflict of interest statement in its proposal, stating whether the respondent's current or past representation of any client would conflict with the respondent's ability to serve as the Prosecutor, and what procedures the respondent would utilize to identify and resolve conflicts of interest. In the event the respondent becomes aware of any conflicts or potential conflicts between the interests of the Tribe and the interests of a client of the respondent during the pendency of the RFP process, the respondent must immediately notify the Tribal Attorney in writing of such conflict.

PROPOSALS:

Proposals must include the following:

1. Identify each attorney (and staff person, if applicable) who would be involved in providing the prosecutorial services, and each person's proposed role in providing the services.
2. Summarize each such person's experience relevant to the prosecutorial services, including the number of years each person has been working in the field.
3. Provide the current résumé(s) of each attorney who would provide the prosecutorial services.
4. Describe the proposed method of service provision, prosecutorial philosophy and approach, and what makes the respondent unique with respect to providing the prosecutorial services.
5. Set forth the respondent's proposed fee structure. State whether the respondent would charge for travel time and describe in detail any other expenses that the respondent would charge to the Tribe.
6. State whether the respondent's current or past representation of any client would conflict with the respondent's ability to serve as the Prosecutor, and what procedures the respondent would utilize to identify and resolve conflicts of interest or recuse himself/herself from the case.
7. Provide a writing sample relevant to the handling of an Indian Child Welfare case or criminal prosecution.
8. Provide proof of licensure to practice in one or more states.
9. Identify three professional references who can attest to the respondent's experience and capabilities as they relate to the services requested. The references must include contact name, address, email, and telephone number.
10. If a respondent is an enrolled member of the Burns Paiute Tribe or other federally recognized Indian tribe, state that in the response, and include proof of enrollment.

Proposals should be simple and straightforward and provide a concise description of the respondent's ability to meet the requirements of the RFP. Any additional information that the respondent would like to submit should be included in a separate section titled "Supplemental Information"

OTHER INFORMATION:

1. Signed Proposals – all proposals must be signed by a person authorized to sign on behalf of the respondent and to bind the respondent to statements made in response to this RFP.
2. Irrevocability of Proposals – by submission of a clear and detailed written notice to the Tribal Attorney, a respondent may amend or withdraw its proposal at any point up to the closing date and time for the submission of proposals. A respondent who has withdrawn a proposal may submit a new proposal before the closing date and time, provided that such proposal is done in accordance with the terms and conditions of this RFP. At and after the closing date and time for the submission of proposals, the respondent's proposal may no longer be amended (excepting only at the Tribal Attorney's request for purposes of clarification) or withdrawn.
3. Acceptance of Terms – unless specifically excluded in writing, all the terms and conditions of this RFP are accepted by the Respondent and incorporated in its proposal.
4. Respondent's Expenses – respondents are solely responsible for their own expenses in preparing, and submitting, a proposal and for subsequent negotiations with the Tribe, if any. The Tribe will not be liable to any respondent for any claims, whether for costs or damages incurred by the respondent in preparing, and submitting, the proposal, loss of anticipated profit in connection with any final contract, or any other matter whatsoever.

5. Currency and taxes – prices quoted are to be in U.S. dollars.

6. Acceptance of Proposals – this RFP should not be construed as an agreement by the Tribe to procure goods or services. The Tribe is not bound to enter into a contract with the respondent who submits the lowest priced proposal or with any respondent. Proposals will be assessed considering the evaluation criteria. The Tribe will be under no obligation to receive further information, whether written or oral, from any respondent.

7. Form of contract – by submission of a proposal, the respondent agrees that, should it be the successful respondent, it is willing to enter into the attached Prosecutorial Services Agreement with the Tribe. If the respondent intends to request any revisions to the attached Prosecutorial Services Agreement, it must indicate all revisions it will request in its response. Otherwise, the Tribe will expect the appointed respondent to execute the Prosecutorial Services Agreement in the form attached.

8. Independent Contractor—the selected respondent will serve as an independent contractor to the Tribe, and not an employee of the Tribe.

9. Liability for Errors – while the Tribe has used considerable efforts to ensure an accurate representation of information in this RFP, the information contained herein is supplied solely as a guideline for respondents. The information is not guaranteed or warranted to be accurate by the Tribe, nor is it necessarily comprehensive or exhaustive. Nothing in this RFP is intended to relieve respondents from forming their own opinions and conclusions with respect to the matters addressed in this RFP.

10. Modification of Terms – the Tribe reserves the right to modify the terms of this RFP at any time in its sole discretion. This includes the right to cancel this RFP at any time prior to entering into a contract with a selected respondent.

11. Ownership of Proposals – all documents and materials submitted, including proposals submitted by respondents in response to this RFP, become the property of the Tribe. They will be received and held in confidence to the extent allowable by law.

12. Use of Request for Proposal – this RFP, or any portion thereof, may not be used for any purpose other than the submission of proposals.

13. Confidentiality of Information – information pertaining to the Tribe obtained by the Respondent as a result of participation in this RFP process is confidential and must not be disclosed without written authorization from the Tribe.

SUBMISSION OF PROPOSALS:

Please submit an electronic version of the respondent's proposal (a single PDF file is strongly preferred) no later than 5:00 p.m. Pacific Standard Time on February 10, 2021 to:

Tracy Kennedy, Tribal Council Secretary, 100 Pasigo Street, Burns, OR 97720

Email: BPTTribalCouncil@burnspaiute.onmicrosoft.com

Late responses will not be accepted or considered.

Tracy Kennedy will serve as the sole contact for the review process for the respondent's proposal. Any and all questions and communications regarding this RFP should be addressed to Tracy Kennedy through

email at the above address. Any attempt to communicate with other Tribal officials or employees about this RFP may result in the disqualification of a respondent's proposal.

SELECTION PROCESS:

The selection process will be based on the respondent's qualifications in the areas specified herein, as well as verifiable references for past similar, successful projects.

The Tribal Council will evaluate all proposals and interview one or more of the best-qualified respondents. If the Tribal Council approves, it will formally appoint the selected respondent.

The appointed respondent will be required to enter into the attached Prosecutor Contract with the Tribe. If a respondent intends to request any revisions to the attached Prosecutorial Services Agreement, the respondent must indicate all revisions it will request in its response. Otherwise, the Tribe will expect the appointed respondent to execute the Prosecutorial Services Agreement in the form attached.

At the conclusion of the RFP process, all respondents will be notified of the outcome.