



COUNTY OF SONOMA

575 ADMINISTRATION
DRIVE, ROOM 102A
SANTA ROSA, CA 95403

SUMMARY REPORT

Agenda Date: 3/5/2024

To: County Board of Supervisors

Department or Agency Name(s): County Administrator's Office & County Counsel's Office

Staff Name and Phone Number: Peter Bruland 707-565-3086, Joshua A. Myers 707-565-2421

Vote Requirement: 4/5th

Supervisorial District(s): Countywide

Title:

Amendment to Contract for Alternate Defense Counsel Legal Services

Recommended Action:

- 1.) Authorize County Counsel to execute an amendment to the Alternate Defense Counsel Legal Services Agreement with the current program administrator, Indigent Defense Administration of Sonoma County, LLC, to increase the monthly payments to the Program Administrator in the amount of \$4,000.00 for the months of February, March, April, May and June 2024, for an additional total of \$20,000.00.
- 2.) Approve the use of up to \$20,000 in General Fund Contingencies for the additional contract costs.

Executive Summary:

The County is obligated by law to pay the costs associated with the representation of indigent people facing incarceration in the criminal courts. The Sonoma County Public Defender's Office provides the first level of representing indigent defendants. When the Public Defender has a conflict of interest, conflict counsel must be appointed and the County is responsible for their fees, as well as necessary ancillary costs.

On June 6, 2023, your Board authorized the Chair to execute a four-year agreement with Indigent Defense Administration of Sonoma County, LLC, to provide for indigent defense services for July 1, 2023, through June 30, 2027.

Due to unforeseen increases in the felony caseload for attorneys providing alternative defense services, the Program Administrator has increased the number of attorneys providing felony defense services in February 2024 and anticipates a continuing need to do so through June 2024. This resulted in the need for an additional \$4,000 per month in costs for the Program Administrator.

This item is recommending your Board authorize County Counsel to execute an amendment to the existing contract with Indigent Defense Administration of Sonoma County, LLC, to increase the monthly payments in the amount of \$4,000.00 for the remainder of the term of the contract, or June 30, 2027, with one two year option to extend.

Discussion:

The County is obligated by law to pay the costs associated with the representation of indigent people facing incarceration in the criminal courts. The Sonoma County Public Defender's Office provides the first level of representing indigent defendants. When the Public Defender has a conflict of interest, conflict counsel must be appointed and the County is responsible for their fees, as well as necessary ancillary costs.

Larger counties may operate a County Department for provision of second level representation ("Alternate Public Defender"). Other counties contract with an outside administrator who maintains a list of attorneys and those attorneys are appointed by the Court and paid an hourly rate by the County. These attorneys represent defendants at the second and consecutive levels of conflict even in counties with an Alternate Public Defender office.

Sonoma County has used a hybrid method which has ensured consistent, qualified and effective representation to all indigent defendants who cannot be represented by the Public Defender's Office. The administrator ensures there are sufficient qualified attorneys to address the needs of the criminal justice system including cases involving felonies, misdemeanors, juvenile delinquency, contempt, misdemeanor appeals and witnesses who require representation. The fixed-price agreement is sufficiently flexible to adjust to extraordinary circumstances, while ensuring predictability for budgeting purposes, as well as cost containment. Hourly rate programs require substantial administration, frequently resulting in cost overruns and are less consistent in terms of quality.

The County has utilized the fixed-price contract structure since 2005. The Sonoma County Superior Court administration had reported satisfaction with this arrangement for alternate defender services.

On March 6, 2023, the County of Sonoma released a Request for Proposal for Conflict Counsel Indigent Defense services. The County received one proposal from the incumbent provider and the proposal was evaluated by staff on April 10, 2023. Indigent Defense Services was the successful bidder for these services following evaluation.

Most recently, on June 6, 2023, your Board approved a new four-year agreement with Indigent Defense Administration of Sonoma County, LLC, to provide for Indigent Defense Services from July 1, 2023, through June 30, 2027 with one (1) two year option, at a cost of \$2,689,025.70 for FY 23-24, increasing by 3% annually through the term of the agreement.

In the past calendar year, the caseload for program attorneys qualified to handle felony cases has gone up by 130%. The seriousness of the cases has also increased, as demonstrated by a 180% increase in cases that are charged as homicides. Conversely, there are fewer cases being charged as misdemeanors, or lower-level crimes. The Superior Court is adjusting, as well, by closing a misdemeanor courtroom and opening an additional felony courtroom.

The felony caseload is unsustainable for the program attorneys qualified to handle felony cases. The high caseloads may negatively affect the attorney's ability to competently represent the indigent client. Therefore, the Program Administrator has proposed increasing the number of attorneys handling felony cases by promoting three of the more experienced misdemeanor attorneys to handle lower-level felony cases. The requested increase of \$4,000 per month for the months of February, March, April, May, and June will cover the additional expense of these attorneys handling some felony cases. The County Administrator's Office and

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County Counsel have reviewed the Program Administrator’s staffing proposal and believe this increase is necessary for the County to continue providing mandated competent alternative defense services.

This item is recommending your Board authorize County Counsel to execute an amendment to the existing contract with Indigent Defense Administration of Sonoma County, LLC, to increase the monthly payments in the amount of \$4,000.00 for the remainder of the term of the contract, or June 30, 2027, with one two-year option to extend.

Additional costs in FY 2023-24 may be absorbed within the existing Court Support appropriations. If necessary, staff will include an adjustment in the third quarter consolidated budget adjustment to utilize up to \$20,000 in General Fund Contingencies to cover the increased costs of this agreement.

Strategic Plan:

N/A

Racial Equity:

Was this item identified as an opportunity to apply the Racial Equity Toolkit?

No

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Prior Board Actions:

June 6, 2023 - Authorized Chair to execute a four-year agreement with Indigent Defense Administration of Sonoma County, LLC, to provide for indigent defense services for July 1, 2023, through June 30, 2027 with one (1) two year option, at a cost of \$2,689,025.70 for FY 23-24, increasing by 3% annually through the term of the agreement.

May 17, 2022 - Authorized CAO to execute a one-year agreement with Indigent Defense Administration of Sonoma County, LLC.

April 9, 2019 - Approved three-year agreement with Kristine Burk for indigent defense services.

May 7, 2013 and June 21, 2016 - Approved three-year agreement with Harry Allen for indigent defense services.

FISCAL SUMMARY

Expenditures	FY23-24 Adopted	FY24-25 Projected	FY25-26 Projected
Budgeted Expenses		\$49,440	\$50,923
Additional Appropriation Requested	\$20,000		
Total Expenditures	\$20,000	\$49,440	\$50,923
Funding Sources			
General Fund/WA GF		\$49,440	\$50,923
State/Federal			
Fees/Other			
Use of Fund Balance			
General Fund Contingencies	\$20,000		

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Total Sources	\$20,000	\$49,440	\$50,923
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Narrative Explanation of Fiscal Impacts:

Funds for this contract are included in the FY 2023-24 Non-Departmental-Court Support budget. Up to \$20,000 in General Fund Contingencies will be used to pay the costs of the amended agreement. Any needed adjustment will occur in the third quarter Consolidated Budget Adjustments. Appropriations for future years will be requested as part of the annual budget process.

Staffing Impacts:

Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

- 2024 Amendment to 2023 Conflict Counsel Indigent Defense Agreement
- 2023 Conflict Counsel Indigent Defense Agreement

Related Items "On File" with the Clerk of the Board:

N/A