



COUNTY OF SONOMA

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

SUMMARY REPORT

Agenda Date: 6/6/2023

To: Board of Supervisors

Department or Agency Name(s): County Administrator, County Counsel

Staff Name and Phone Number: Marissa Montenegro 707-565-2431, Joshua Myers 707-565-2421

Vote Requirement: Majority

Supervisorial District(s): Countywide

Title:

Conflict Counsel Indigent Defense Services Agreement

Recommended Action:

Authorize 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 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.

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 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.

This item is recommending your Board authorize the Chair 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.

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 last request for proposal was issued in April 2019, resulting in the County entering into an agreement with the incumbent. This agreement will expire on June 30, 2023. In preparation of the current agreement term, the County of Sonoma released a Request for Proposal on March 6, 2023.

The request for proposal was sent to a list of 792 registered suppliers in addition to Sonoma, Napa, Marin and Mendocino Bar Associations. The County received one proposal from the incumbent provider and the proposal was evaluated by CAO, County Counsel and Public Defender staff on April 10, 2023, and a new agreement has been negotiated.

The proposed agreement provides coverage for all conflicts arising out of felony, misdemeanor, and juvenile courts accepting all Court appointments to represent defendants when the Public Defender has declared a conflict.

This item is recommending your Board authorize 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 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.

Strategic Plan:

N/A

Prior Board Actions:

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	FY 22-23 Adopted	FY23-24 Projected	FY 24-25 Projected
Budgeted Expenses		\$2,689,025.70	\$2,769,696.47
Additional Appropriation Requested			
Total Expenditures		\$2,689,025.70	\$2,769,696.47

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Funding Sources			
General Fund/WA GF		\$2,689,025.70	\$2,769,696.47
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
Total Sources		\$2,689,025.70	\$2,769,696.47

Narrative Explanation of Fiscal Impacts:

Funds for this contract are included in the FY 2023-24 Non-Departmental-Court Support recommended budget. Appropriations for future years will be requested as part of the annual budget process.

Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

2023 Conflict Counsel Indigent Defense Agreement

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

N/A