



Legislation Text

File #: 2021-1049, **Version:** 1

To: Sonoma County Board of Supervisors
Department or Agency Name(s): Sheriff's Office
Staff Name and Phone Number: Sharon Post, 565-1119
Vote Requirement: Majority
Supervisory District(s): Countywide

Title:

Inmate Medical and Dental Agreement

Recommended Action:

Authorize the Chair to execute an Agreement with California Forensic Medical Group, Inc., to provide inmate medical and dental services for the period November 1, 2021 through October 31, 2026, with two one-year options to extend. Options to extend are recommended to be exercised by the Sheriff without Board approval, unless the annual increase for either year is greater than the average Consumer Price Index (CPI) used as the basis, in which case the Board of Supervisors must exercise the option to extend. The Sheriff's Office FY 21-22 Adopted Budget includes \$8,099,843 for inmate medical and dental services for an average daily inmate population (ADP) of 800. Assuming an increase in population to 1,000 ADP for years two through seven, and CPI increases each year of 3.5%, the estimated value of the Agreement, for five years and two optional extensions, is approximately \$63,011,979.

Executive Summary:

The Sheriff is requesting the Board authorize the Chair to execute the Agreement for Inmate Medical and Dental Services with California Forensic Medical Group, Inc. (CFMG), effective November 1, 2021. This Agreement was initially brought to the Board for approval on July 20, 2021, and again August 31, 2021. On July 20, the Board voted to amend the existing Agreement to extend the term for up to six months, and postponed approval of the proposed Agreement until additional language was added to strengthen the auditing of CFMG medical staffing levels. This language has been added. Additionally, in response to a request by the Board, audit and staffing information will be provided to the Board by the Sheriff's Office and CFMG on a regular basis. On August 31, the Agreement was pulled from the Board Agenda pending follow up on direction from the Board to seek the inclusion of a liquidated damages clause in the proposed Agreement. A mutually agreed upon liquidated damages clause was successfully negotiated with CFMG and has been added to the proposed Agreement. The Sheriff is recommending the County enter into the proposed Agreement, with the addition of new reporting language, and a liquidated damages clause; based on the results of a recently administered request for proposals (RFP) process and due to the critical nature of the services involved.

Discussion:

RFP and Selection Process

The current Agreement for Inmate Medical and Dental Services was set to expire on July 31, 2021; the Board voted on July 20, 2021 to extend the term for up to six months to allow for time to modify the proposed Agreement.

California Forensic Medical Group Inc. (CFMG) has been providing medical and dental services to Sonoma County inmates since 2000 and is the current provider of services. Wellpath LLC, as the Management Service Organization, provides services to CFMG such as general accounting, license filing, regulatory compliance, assistance in responding to claims and litigation, payroll, invoice preparation, risk management, and human resources. On November 16, 2020 an RFP was distributed via the County Purchasing RFP distribution system, to hundreds of recipients who opted to receive medical category notifications, including four known to the Sheriff's Office as providers of inmate medical care. A proposal review committee, consisting of representatives from the Department of Health Services (DHS), County Counsel, and the Sheriff's Office, was assigned to evaluate proposals. Six vendors logged into the County Purchasing portal to review bid documents. Two vendors took advantage of the optional detention facility tours; a third was scheduled but the vendor canceled. Bidders were given nearly nine weeks to submit proposals. Two proposals were received by the January 15, 2021 deadline. In consultation with County Purchasing, and following established County guidelines, it was determined that one of the two proposals was nonresponsive. Therefore, the RFP process yielded only one valid proposal, from CFMG and Wellpath, the current providers in Sonoma County and 33 other California counties. The proposal submitted by CFMG and Wellpath was comprehensive, meeting or exceeding all County requirements for the provision of medical and dental services including a robust continuous quality improvement program and grievance process. The RFP selection process continued per County guidelines, and a proposed Agreement was negotiated with CFMG and Wellpath, for inmate medical and dental services.

Proposed Agreement

The proposed Agreement includes all of the provisions outlined in the RFP for the delivery of medical and dental services to inmates, in compliance with the California Code of Regulations, Title 15 Minimum Standards for Local Detention Facilities; and the National Commission on Correctional Health Care (NCCHC) Standards for Health Services in Jails. The proposed Agreement is for an initial term of five years, with two one-year options to extend. The proposed Agreement contains the same provision as the current Agreement, for annual increases for the second year through the fifth year of the Agreement, based on the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index (CPI) rate increase using the Medical Care Component for the West Urban Region, All Urban Consumers. The rate increase for the two optional years, should both parties choose to exercise the option, will be based on the same criteria with the understanding that the parties will meet in good faith to determine whether the required compensation should increase by an additional amount based on an increase in the prevailing wages for medical staff in the local area. The options to extend the proposed Agreement are recommended to be exercised by the Sheriff without Board approval; however, if the annual increase, for either option year, is greater than the average Consumer Price Index (CPI) during the

February to February time period of the previous year, the Board of Supervisors must exercise the option to extend.

The proposed Agreement is expected to go into effect November 1, 2021. The cost, for an average daily inmate population (ADP) of 1,000, is estimated to be up to \$8,349,193 for FY 21-22. Actual expenses are expected to be lower, depending on the number of inmates in custody over the course of the fiscal year, as experienced in FY 20-21. The FY 20-21 cost of medical and dental services under the current Agreement was estimated to be \$7,778,148, but actual expenses were lower due to the reduced inmate population as a result of circumstances impacted by COVID-19. Much like the current Agreement, the proposed Agreement includes a provision for per diem payment adjustments to accommodate fluctuations in average daily inmate population. The provision in the current Agreement uses a base of 1,000 ADP, while the proposed Agreement uses a pandemic/post pandemic base of 800 ADP. If the ADP is greater than 900 for three consecutive months, the County will pay CFMG \$4.73/day per inmate in excess of 900 during that quarter. Conversely, if the ADP is less than 700 per month for any three consecutive months, CFMG will issue a credit of \$4.73/day per inmate.

We believe cost savings will continue in FY 21-22 for as long as the inmate population remains lower than pre-pandemic levels, but higher populations are predicted as time progresses. The rate at which the population will grow or approach pre-pandemic levels of 1,000 is difficult to predict because the population is dependent on variables that are out of the Sheriff's Office control (court schedules and rulings, legislation, options for alternatives to detention, State prison transfer policy, local law enforcement activities, seasonal crime patterns, etc.). The Sheriff's Office predicts that the population could reach 1,000 in FY 21-22, therefore for planning purposes cost projections in the Fiscal Summary below for FY 22-23 and FY 23-24 are based on an estimated ADP of 1,000.

The cost of the first year of the proposed Agreement is approximately 7% higher than the prior year, assuming pre-pandemic population levels for both. The increase reflects notable changes to medical staffing outlined below; the healthcare market in general; the healthcare of incarcerated adults, most of whom are in poor health and lacking necessary medical care and intervention before arrival; competitive and fair salaries and benefits for staff; the cost of pharmaceuticals; on- and off-site medical and dental services; annual CPI increases; and insurance. Services conform to applicable standards for inmate care as prescribed or mandated by the National Commission on Correctional Health Care (NCCHC), California Code of Regulations (CCR), Title 15, the laws of the State of California, and the National Prison Rape Elimination Act (PREA).

At the request of this Board and in consultation with County Counsel, the Sheriff's Office was able to successfully negotiate with CFMG to add Section 17. Liquidated Damage to the proposed Agreement. This clause was not part of the RFP standard County contract template, therefore, required CFMG's willingness to agree to its inclusion post RFP process. Liquidated damages are an estimate of an intangible loss to the County as a result a contractor not performing. It is a provision that allows for the payment of a specified sum

should CFMG be in breach of contract. Prior to Liquidated Damages being imposed CFMG will have a reasonable opportunity to cure any alleged deficiencies. A daily amount of \$1,500 as Liquidated Damages shall be assessed, not as a penalty, but for damages to the County due to delays in providing Services in accordance with the Agreement Scope of Services. In addition to the Liquidated Damages clause, the proposed Agreement contains several other Sections which provide contractual remedies for non-performance, specifically Section 1.3 Performance Standard, Sub-section a. and b.

The Detention Division is audited on a regular basis by third party organizations including inspections from the Board of State and Community Corrections (BSCC) every two years, and a Prison Rape Elimination Act (PREA) audit conducted by an outside auditor every three years. The Sheriff's Office has been accredited by the Institute of Medical Quality (IMQ) through the California Medical Association (CMA) since 2007. IMQ audits take place every two years and include review of medical procedures, care and treatment standards, quality management, and personnel standards. The Sheriff's Office has consistently maintained accreditation and compliance with standards while CFMG and Wellpath have been providing services.

Internal audit mechanisms include monthly meetings with CFMG/Wellpath and Custody staff, and quarterly Sonoma Quality Assurance meetings conducted with participation from County Public Health, County Counsel, County Behavioral Health, CFMG/Wellpath, Sheriff's Office, and other medical/hospital community stakeholders. Annual peer review is conducted for CFMG MDs. The Grand Jury also conducts annual visits and perform a review of the Detention facilities. These and regular internal staffing level audits will continue under the proposed Agreement, and annual peer review will be expanded to include all clinical staff. At the request of the Board, these audits and reviews will be shared with the Board on a regular basis. Audits and accreditation conducted by external organizations will be shared upon the Sheriff's Office receipt of any audit and accreditation report. Internal staffing level reviews and reports will be shared with the Board on a quarterly basis. The quarterly sharing of information will include monthly data statistics to include vacancies by position type and planned versus actual shift coverage. The Sheriff's Office Detention Division administrative and operational staff will continue to provide comprehensive contract oversight and management to ensure compliance with all terms and conditions contained in the proposed Agreement.

CMA is no longer offering IMQ accreditation for correctional medicine facilities, and the Sheriff's Office Detention Division is pursuing new and higher standards accreditation from the National Commission on Correctional Health Care (NCCHC). The NCCHC accreditation process may take up to eighteen months to complete and is supported by the proposed Agreement. A notable change to the proposed Agreement is the addition of medical personnel to address Sheriff's Office staffing goals and meet accreditation standards of the NCCHC. New medical staff include:

- 4.2 FTEs of RN coverage, to provide a dedicated Booking Nurse 24/7 (recommended in the 2019 Grand Jury Report and for NCCHC accreditation)
- 1.0 FTE of RN coverage at the MADF to assist with the 14-day health assessments (as required for

accreditation)

- 0.6 FTE Discharge Planner to assist with the new Medication Assisted Therapy (MAT) Program and ensure substance use disorder (SUD) patients are connected to appropriate community resources upon discharge (also recommended in the 2019 Grand Jury Report). The current Agreement was amended in February 2021 to add this position for the remainder of the current contract term, and the proposed Agreement incorporates this new position for continued MAT program support.

Also related to the NCCHC accreditation, the Sheriff's Office has been accepted to participate in a Harvard University study to assist in designing policies and standards that improve the health of staff and inmates while reducing liability for facilities.

Strategic Plan:

N/A

Prior Board Actions:

The Board has approved consecutive agreements for inmate medical and dental services with California Forensic Medical Group, Inc. since 2000. On July 20, 2021 the Board voted to extend the current contract for up to six months for the purpose of allowing time to strengthen audit language in the proposed Agreement. On August 31, 2021 this item was pulled from the Board Agenda and Board members requested that staff look into the inclusion of a liquidated damages clause to the proposed Agreement.

FISCAL SUMMARY

Expenditures	FY 21-22 Adopted	FY22-23 Projected	FY 23-24 Projected
Budgeted Expenses	\$8,099,843	\$8,740,713	\$9,046,638
Additional Appropriation Requested			
Total Expenditures	\$8,099,843	\$8,740,713	\$9,046,638
Funding Sources			
General Fund/WA GF	\$8,099,843	\$8,740,713	\$9,046,638
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
Total Sources	\$8,099,843	\$8,740,713	\$9,046,638

Narrative Explanation of Fiscal Impacts:

The Sheriff's FY 21-22 Adopted Budget includes \$8,099,843 to fund inmate medical and dental services for an ADP of 800. Years two through seven of the Agreement assume an ADP of 1,000, plus CPI.

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:

Proposed Agreement for Inmate Medical and Dental Services

Related Items “On File” with the Clerk of the Board:

N/A