



**MEMORANDUM
COUNTY EXECUTIVE OFFICE
ADMINISTRATION**
County of Placer

TO: Honorable Board of Supervisors
FROM: David Boesch, County Executive Officer
By: Bekki Riggan, Deputy CEO
DATE: July 26, 2016
SUBJECT: Primary Indigent Defense Services

ACTION REQUESTED

1. Approve and authorize the County Executive Officer to conclude negotiations and sign a four- year contract from August 1, 2016 through June 30, 2020 in the negotiated amount of \$23,962,500 with the Law Office of Dan Koukol for primary indigent defense services on terms consistent with those contained in the draft agreement.
2. Provide staff direction on continuing to evaluate service model options, including potential development of a county office, for indigent defense services.

BACKGROUND

On June 21, 2016, your Board received an update on the Request for Qualifications (RFQ) process for primary indigent defense services and on the anticipated costs of establishing a county office for providing these services. Staff were directed to: (1) negotiate contract terms with the Law Office of Dan Koukol, the highest ranking firm from the RFQ process; and (2) continue to evaluate service delivery options for this program area including the possibility of establishing a county office.

To ensure uninterrupted services to the courts and the justice system, and to mitigate some of the uncertainty for staff working in the contract law firms, staff recommends executing a 4-year contract with the Law Office of Dan Koukol in the amount of \$23,962,500, and conducting a more comprehensive review of service model options, after the contract is in place. Staff proposes this review be conducted with various criminal justice stakeholders and that staff returns to your Board at a later date with the results of that review. Dan Koukol has affirmed his willingness to participate in these discussions, and also to assist with the transition to a county office in the future, should that ultimately be the direction your Board provides.

Negotiations with the Law Office of Dan Koukol

In response to the RFQ, the Law Office of Dan Koukol submitted an initial 4-year proposal of \$27,700,000. Subsequent contract negotiations with Mr. Koukol have resulted in a revised proposal of \$23,962,500, a reduction of 13.9%, from the initial proposal. Cost reductions were achieved through the following:

- Clarifying contract obligations through the transition period and over the contract term, thus removing ambiguity, and the resulting need for contingency funding within the contract;

- Reducing total contract staff from 51 to 45;
- Reducing commercial lease costs.

Costs for the county staff model were initially projected at \$3 million over the initial 4-year Koukol proposal. Final negotiations with Mr. Koukol resulted in a projected savings of approximately \$6.7 million over the 4-year term contract term in comparison to a county staff model.

Continued Analysis of Service Model Options

There are several published reports that discuss the standards and objectives for public defender programs. These include the American Bar Association's Standards for Criminal Justice (1980), NLADA'S Standards for Defense Services (1976), the Report of the National Study Commission and Defense Services, Guidelines for Legal Defense Systems in the United States (1976), and the volume of standards published by the National Advisory Commission on Criminal Justice Standards and Goals (1973). These guidelines are intended to assist state and local governments across the country in establishing constitutionally sound indigent defense programs and to ensure that these programs operate well for government, the courts and for the citizens they serve.

The American Bar Association (ABA) cites, among other things, oversight and standards, independence from political and judicial pressure, and formal, systematic training for attorneys as key elements in the development of quality indigent defense programs. Placer County's contract model has consistently recognized the right to competent counsel as a fundamental aspect of due process in a criminal justice system, and has developed a contract model based on the principles of public defense service delivery adopted by the ABA. In recognition of the importance of a high functioning indigent defense program, county staff recommends that an evaluation committee, comprised of stakeholders with expertise in the criminal justice system and criminal defense functions, convene to review guidelines and performance criteria for criminal defense services and to assess the merits of various service models. Further, staff recommends returning to your Board with the results of this review in sufficient time to allow for a seamless transition to another service model, should that be your Board's direction.

Transition Process

To facilitate continuity of services, an overlapping period of time between contracts allows for an appropriate transition of cases from the current to the incoming provider. Negotiations with The Law Office of Dan Koukol and with Richard Ciummo and Associates identified a 6-month transition timeline and phased approach to be coordinated with the assistance of the Superior Court. At the conclusion of the transition period any remaining open cases would be assigned to contract attorneys to handle through disposition, which may result in additional costs to the county.

On June 21, 2016, your Board approved a two-year contract extension with the Law Office of Dan Koukol for Second-Level Conflict Indigent Defense. Should your Board approve the above requested action, The Law Office of Dan Koukol will have responsibility for both the Primary and the Second-Level Conflict duties, but will handle the Second-Level Conflict duties through a subcontract managed in his office. This is anticipated to improve coordination of conflict cases and to achieve better system efficiencies.

FISCAL IMPACT

FY 2016-17 Proposed Budget includes \$7,320,000 to fund indigent defense service contracts. Total FY 2016-17 cost of all negotiated contracts is \$9,190,176, as follows:

- The Law Office of Dan Koukol for Primary Indigent Defense (\$4,862,500);
- 6-month transition contract with Richard A. Ciummo and Associates (\$2,415,623);
- The Law Office of Mark Berg for First-Level Conflict Indigent Defense (\$1,594,053);
- The Law Office of Dan Koukol for Second-Level Conflict Indigent Defense (\$318,000);

Indigent Defense Services are fully funded by the County General Fund. Additional FY 2016-17 funding in the amount of \$1,870,176 will be brought to your Board for approval with the FY 2016-17 Final Budget.

Draft agreement is on file with the Clerk of the Board.

