



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

TO: Honorable Board of Supervisors DATE: June 21, 2022

FROM: Jane Christenson, Acting County Executive Officer
By: Bekki Riggan, Deputy County Executive Officer; and
Amanda Flaa, Management Analyst II

SUBJECT: Indigent Defense Services – First and Second Level Conflict

ACTION REQUESTED

1. Approve and authorize the County Executive Officer to sign a four-year agreement for First Level Conflict Indigent Defense Services with Cohen Defense Group, for the period of July 1, 2022, through June 30, 2026, in the amount of \$9,731,663.68, with a four-year option to renew.
2. Approve and authorize the County Executive Officer to sign a four-year agreement for Second Level Conflict Indigent Defense Services with Koukol and Associates, Inc., for the period of July 1, 2022, through June 30, 2026, in the amount of \$1,847,500, with a four-year option to renew.

BACKGROUND

The Constitution of the United States and California statutory provisions guarantee the right to legal representation for those facing criminal charges, juvenile delinquency and other matters as described below for any person who is not financially able to retain counsel:

- Proceedings regarding the commission of any offense triable in Superior Court
- Conservatorship and various mental health proceedings
- Various juvenile delinquency and dependency court proceedings
- Paternity cases in which the county or the state has filed suit (e.g. family support cases)

In California, the responsibility for providing and funding legal representation for those who cannot afford counsel falls to each individual county. California's 58 counties meet this responsibility through a variety of service delivery models including:

1. Public Defenders Office as County Department – where the attorneys and support staff are salaried public employees
2. Contract Public Defenders – where private sector law firms or sole practitioners serve as independent contractors to the county
3. Assigned Counsel – where cases are assigned directly by the court and are paid either a flat fee per case, or on an hourly basis

Due to the high costs associated with operating a county department, many counties elect to contract with law firms from the private sector for their indigent defense services. Indigent defense services in Placer County have been delivered through a contract model since June 1971. In 2016, at the direction of the Board, staff reevaluated contract and departmental

models and determined this service delivery model remains the best approach to providing constitutionally required, efficient and effective indigent defense services at a savings to the County.

Placer County currently contracts with three separate firms to provide criminal defense services to indigents: a Primary Public Defender, a First Level Conflict, and a Second Level Conflict. When a conflict exists with the Primary firm, those cases are assigned to the First level Conflict firm, Cohen Defense Group. If a conflict exists for both the Primary and the First Level Conflict firms, those cases have been assigned to Koukol and Associates, Inc. as the Second Level Conflict firm.

The County has periodically solicited proposals to ensure that services to clients are provided in compliance with the constitutional mandates of effective counsel, while maintaining best practices of governmental efficiency, economy and accountability. In June 2014, the County completed a competitive process to determine the best firm to provide Second Level Conflict Indigent Defense Services, and that contract was awarded to Koukol and Associates, Inc. In April of 2018, County Executive Office and Procurement Services Division completed a competitive process to determine the best firm to provide the First Level Conflict Indigent Defense Services and that contract was awarded to Cohen Defense. Both the First and Second Level Conflict Indigent Defense Services expire on June 30, 2022, and staff wish to enter into new four-year contracts with both agencies.

FIRST LEVEL CONFLICT CONTRACT RENEWAL (4-year term) - COHEN					
	FY22/23	FY23/24	FY24/25	FY25/26	CONTRACT TOTAL *
Contract Amount	\$2,315,763.24	\$2,384,078.26	\$2,454,408.56	\$2,526,813.62	\$9,731,663.68
% change from prior year	19.39%	2.95%	2.95%	2.95%	

*The contract total includes a one-time payment for technology costs of \$50,600

SECOND LEVEL CONFLICT CONTRACT RENEWAL (4-year term) - KOUKOL					
	FY22/23	FY23/24	FY24/25	FY25/26	CONTRACT TOTAL *
Contract Amount	\$424,000	\$440,000	\$460,000	\$476,000	\$1,847,500
% change from prior year	19.77%	3.77%	4.55%	3.48%	

*The contract total includes a one-time payment for technology costs of \$47,500

Both contracts include a significant increase in the first year (over the prior) year due to salary adjustments to keep up with cost-of-living increases over the past several years, increases in benefit and health insurance costs, as well as increased ongoing technology and digital costs due to increased use of digital evidence. Additionally, Cohen requested funding for a new attorney and a clerical position to keep up with demands of a changing arraignment calendar. Both contracts include a one-time payment for technology costs for computer equipment necessary to store, distribute, and process the law enforcement media currently being received.

FISCAL IMPACT

Indigent Defense Services are fully funded by the County General Fund. The total contract amount for the First Level Conflict Indigent Defense Services with Cohen Defense Group is

\$9,731,663.68. The FY 2022-23 annual amount of \$2,315,763.24 is an increase of \$376,121.24 over the prior year and does not include a one-time payment of \$50,600. The total contract amount for the Second Level Conflict Indigent Defense Services with Koukol and Associates, Inc. is \$1,847,500. The FY 2022-23 annual amount of \$424,000 is an increase of \$70,000 over the prior year and does not include a one-time payment of \$47,500. The FY 2022-23 Budget includes funding for first year of both the First and Second Level Conflict Indigent Defense Services contracts. The funding for the remaining three years of both contracts will be included in subsequent budgets.

Contracts are on file with Clerk of the Board for review.

