



**SAN BENITO COUNTY
AGENDA ITEM
TRANSMITTAL FORM**

Dom Zanger
District No. 1

Kollin Kosmicki
District No. 2

Mindy Sotelo
District No. 3
Chair

Angela Curro
District No. 4
Vice-Chair

Bea Gonzales
District No. 5

Item Number: 2.2

MEETING DATE: 05/23/2023

DEPARTMENT: COUNTY COUNSEL

AGENDA ITEM PREPARER: Ella Henson

DEPT HEAD/DIRECTOR: Barbara Thompson

SUBJECT:

COUNTY COUNSEL - B. THOMPSON

Receive update on the public defender contracts and authorize release of an RFP, as set forth below or as may be determined by the Board. Provide additional direction to staff on other issues related to the Public Defender's office, including but not limited to an application for grant funding and possible evaluation by the Office of the State Public Defender.

SBC FILE NUMBER: 149

AGENDA SECTION:

REGULAR AGENDA

BACKGROUND/SUMMARY:

Currently indigent public defender services are served by contracted and appointed attorneys, rather than in-house counsel. The County contracts with three primary layers of defense. This allows representation when there is a conflict of interest, or more than one defendant is present in a case.

The first layer of public defense is provided by a contract with Fitzgerald, Alvarez & Ciummo. This firm was selected after a comprehensive RFP process in 2021. This contract commenced on May 1, 2021, and is scheduled to continue to May 1, 2024. The contract is subject to a termination clause of 120 days.

The second layer of public defender services is provided by Harry Damkar who has been providing public defense services for a number of years for the County. The *current* public defender contract Harry Damkar was originally entered on October 26, 2010, and have undergone 12 amendments since then. Mr. Damkar was the successful RFP respondent for the second layer of conflict in 2021.

The third layer of conflict is provided by Pamela Brown. The current contract with Ms. Brown was originally entered on January 31, 2021, and it also has been amended multiple times. Ms. Brown was the successful RFP respondent for the third layer of conflict in 2021.

Attorneys who are needed past the third layer of conflict are normally appointed by the Court, with a varying hourly rates for appointment. Since assuming responsibility for the public defender contracts, the County Counsel's Office has started to compile a list of "panel" attorneys willing to work at a standard rate starting at \$70.00/hour for misdemeanors. The RFP will include language indicating the County's preference for applicant's that can provide administration of a panel as well.

Evaluation by Office of the State Public Defender and potential immigration related-services for our defenders.

The Office of the State Public Defender may have the bandwidth to do an evaluation and gather data that could show any gaps or areas of needed improvement in San Benito's indigent defense system. This service would be free. In order to proceed with this evaluation, OSPD has requested buy-in from the County to signal a commitment to revisiting and improving our system. Other counties have conducted similar reviews, but by a national non-profit.

Current Request:

It is recommended that the Board direct staff to send out an RFP for the first layer of public defender services and also seeking a firm to provide and manage panel attorneys or for proposals from attorneys wishing to serve as panel conflict attorneys to be managed by the County Counsel's Office on a rotational basis (to be determined by the Court), or to establish additional layers of defense.

It should be noted that the County Counsel's office does not directly "manage" the provision of legal services. Any concerns with an attorney's performance should be directed to the Judge in charge of the case. However, the County Counsel's office does review bills to determine that they are reasonable and will manage contracts with conflict attorneys for hourly rates, insurance and indemnification requirements. Currently, when an attorney is appointed by the Court, there is no contract with the County, but the County is obligated to pay those costs.

Staff also requests the Board authorize County Counsel to work with OSPD to conduct an evaluation of the County's public defense system and potential gaps in coverage. Further, OSPD staff has informed the County that the Immigrant Legal Resource Center has immigration consultation services throughout the state and they have a grant to give free immigration consults to some rural counties. Staff requests direction to proceed.

RESOLUTION OR ORDINANCE NEEDED FOR THIS ITEM:

N/A

CONTRACT NEEDED FOR THIS ITEM:

N/A

CONTRACT AND RFP HISTORY:

11/17/2020

LAST CONTRACT AMOUNT OR N/A:

N/A

STATE IF THIS IS A NEW CONTRACT/ HOW MANY PAST AMENDED CONTRACTS/ OR N/A:

N/A

STRATEGIC PLAN GOALS: 1. Operational Development & Excellence

No

STRATEGIC PLAN GOALS: 2. Planning And Sustainable Growth

No

STRATEGIC PLAN GOALS: 3. Technology

No

STRATEGIC PLAN GOALS: 4. Community Engagement

Yes

STRATEGIC PLAN GOALS: 5. Health & Safe Community

Yes

BUDGETED:

N/A

BUDGET ADJUSTMENT NEEDED:

N/A

SOURCE OF FUNDING:

General Fund

UNFUNDED MANDATE:

N/A

SBC BUDGET LINE ITEM NUMBER:

N/A

CURRENT FY COST:

N/A

STAFF RECOMMENDATION:

- 1) It is recommended that the Board of Supervisors approve the issuance of an RFP for public defender services.
- 2) Authorize the County proceeding with the Office of the State Public Defender to conduct an evaluation of the County's public defense services
- 3) Authorize staff to pursue grant and/or state-funded opportunities to provide immigration services to County's indigent defendants at no cost to County.

BOARD ACTION RESULTS:

1. Approved an evaluation by the Office of the State Public Defender. (5/0 vote)
2. Approved the creation of the Public Defender Ad Hoc, appointed Supervisor Sotelo and Gonzales to that ad hoc, and gave authority to the ad hoc to approve an RFP incorporating the Office of the State Public Defender's evaluation. (5/0 vote)
3. Approved to apply for grant funding for immigration related services. (5/0 vote)

ATTACHMENTS:

[rfp_public_defender_SAN_BENITO_COUNTY_RFP 2023 \(ESB\) revised bjt may 17](#)
[Del Norte County Indigent Defense Report \(2\)](#)