



County of San Mateo

Inter-Departmental Correspondence

Department: COUNTY MANAGER

File #: 18-527

Board Meeting Date: 6/26/2018

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors
From: John L. Maltbie, County Manager
Subject: Private Defender Program Contract

RECOMMENDATION:

Adopt a resolution authorizing the President of the Board of Supervisors to execute an agreement with the San Mateo County Bar Association for the Private Defender Program services for the period of July 1, 2018 through June 30, 2020.

BACKGROUND:

The County is obligated to provide legal representation for those persons accused of crimes and subject to certain civil proceedings who are determined by the courts to be indigent and thus entitled to the appointment of counsel at public expense. Through a contractual agreement with the County, the San Mateo County Bar Association (Association) has been providing legal counsel through its Private Defender Program (PDP) to all financially eligible persons since 1968.

The Association is the contracting agency and manages its PDP consistent with the terms of the agreement. The PDP is unique in that its carefully screened attorneys who serve on the panel are not employees, but are independent private attorneys who accept appointments to represent persons determined financially eligible by the courts. Attorneys are compensated by the Association at rates established for various types of appearances in the judicial process.

The County thus avoids the considerable expense of having to enter into additional contracts for legal services in conflict of interest situations, and since the PDP panel attorneys are responsible for maintaining their own offices, the contractual arrangements avoid the costs associated with a traditional public defender office, such as facility costs and employee benefits. The current agreement is scheduled to expire June 30, 2018.

DISCUSSION:

Under the new agreement, the Association will continue to provide legal services for all financially eligible persons entitled to a court-appointed counsel. The Association will provide representation in criminal cases, delinquency cases, mental health cases, and certain civil and miscellaneous cases.

Attorneys will appear at all arraignment calendars, drug count calendars, probable cause hearing calendars, and all other calendars as requested by the Superior Court. The Association will continue to provide, within 60 days of the end of the second and fourth quarter of FY 2018-19, the names of all attorneys who represented clients during that quarter. Attorney-client confidentiality will be carefully observed in all reports furnished to the County under this and other provisions of the contract. Annually, the Association will report to the County on its efforts to provide training to all attorneys accepting cases and shall evaluate the performance of attorneys. The actual evaluation will be confidential, but reported by number and results to the County.

The Association will have an experienced attorney on duty on each business day to receive feedback about the performance of PDP attorneys. Any complaints will be processed in accordance with the written procedures which is specified in Appendix C attached to the contract. The number and nature of all such complaints as well as their disposition will be reported annually to the County. The association shall continue to maintain caseload information and report the results to the County on a monthly basis. The Association recognizes the importance of community outreach efforts and will work closely with the Court and the County to ensure that successful outreach programs are provided to the citizens of San Mateo County.

We believe it is in the best interest of the County and the PDP to enter into a two year agreement, with the financial terms set for one year, at this time until all outstanding items of the PDP’s follow-up financial audit are closed out. This Agreement excludes the amounts the PDP receives from the State for AB109 parole revocation hearings as those allocations, by statute, must be divided equally between the District Attorney’s Office and the PDP.

The agreement includes all provisions that are required by County ordinance and administrative memoranda, including but not limited to insurance, hold harmless, non-discrimination, equal benefits, and the contractor jury service policy. County Counsel has reviewed and approved the agreement and resolution as to form.

Approval of this agreement contributes to the Shared Vision 2025 outcome of a Healthy and Safe Community by ensuring that all residents of San Mateo County, regardless of their socio-economic standing, receive competent legal representation in the court of law as provided by the United States Constitution.

PERFORMANCE MEASURE:

| Measure | FY 2015-16 Actuals | FY 2017-18 Estimates | FY 2018-19 Projections |
|----------------------------------|-------------------------------|---------------------------------|-----------------------------------|
| Superior Court Cases | 6,240 | 2,542 | 2,542 |
| Municipal Court Cases | 15,750 | 15,424 | 15,424 |
| Lanterman Petris Short Act Cases | 189 | 161 | 161 |
| Juvenile Delinquency Cases | 912 | 1,201 | 1,201 |

| | | | |
|-----------------------------|--------|--------|--------|
| Total Case Counts | 23,091 | 19,328 | 19,328 |
| Number of Training Seminars | 18 | 19 | 19 |

FISCAL IMPACT:

The term of the agreement is effective July 1, 2018 through June 30, 2020. A minor increase has been included in the overall costs as a COLA for PDP staff managing the contract. The total amount for the first year of \$18,000,000 is fully funded by net county cost and has been included in the Recommended Budget for FY 2018-19.