



**COUNTY OF NEVADA  
COUNTY EXECUTIVE OFFICE**

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**NEVADA COUNTY BOARD OF SUPERVISORS  
Board Agenda Memo**

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**MEETING DATE:** March 12, 2024  
**TO:** Board of Supervisors  
**FROM:** Alison Lehman, CEO  
**SUBJECT:** Resolution approving execution of a multi-year contract with Cohen Defense Group for indigent legal defense services in the maximum amount of \$3,028,780 for the contract term of March 12, 2024, through June 30, 2027

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**RECOMMENDATION:** Approve the attached Resolution.

**FUNDING:** Indigent defense services are budgeted for in the Conflict Indigent Defense Service Budget Unit, which is a General Fund budget. The Fiscal Year 23/24 (FY24) adopted budget includes an appropriation of \$400,000 for the types of services proposed to be rendered under this contract. While the proposed contract represents a shift in the service delivery model, it is expected that the adopted budget will be sufficient to pay for FY24 services, and no budget amendment is required at this time.

Future fiscal years will require budget appropriation in excess of historical norms for this budget unit, as summarized below.

<b>Fiscal Year</b>	<b>Budgeted Attorney Costs</b>
23/24	\$400,000
22/23	\$475,000
21/22	\$475,000
20/21	\$530,000
19/20	\$475,381
<b>5-Year Average:</b>	<b>\$416,459</b>

<b>Fiscal Year</b>	<b>Proposed Contract Cost</b>	<b>Contract vs. Average Budget</b>
24/25	\$906,780	\$435,704
25/26	\$943,056	\$471,980
26/27	\$980,778	\$509,702
<b>Total 3-Year Budgetary Impact:</b>		<b>\$1,417,385</b>

Costs associated with the delivery of services in the Truckee area will be shared with Placer County, per an Agreement by and between the two counties, which is being presented along with this Resolution. The contract reflects only Nevada County's portion of the shared costs.

**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 for any person who is not financially able to retain counsel. In California, the responsibility for providing and funding legal representation for those who cannot afford counsel falls to each individual county. The County of Nevada meets this responsibility primarily through a County Public Defender's Office, staffed by salaried public employees.

However, when there's a conflict of interest or when the Public Defender's Office is otherwise unable to represent an indigent client, legal representation must be provided by an outside attorney. For the past several years, the Superior Court ("Court") has taken the role of assigning outside counsel. Increasingly, the Court has experienced difficulty in finding local attorneys to take indigent defense cases, resulting in delays in assigning attorneys, or assignment of more expensive non-local attorneys.

Accordingly, Court and County staff met to discuss solutions to this issue. Options included continuing as is, establishing a conflict office with the County staffing structure, or contracting with a single firm or group of attorneys to provide "turnkey" management of defense attorneys. The goals of the discussions were to identify the best solution to comply with the constitutional mandates of effective counsel, while maintaining best practices of governmental efficiency, economy and accountability. The preferred solution was the turnkey approach, and to that end a Request for Proposals ("RFP") was issued on April 7, 2023, seeking a firm or group of outside attorneys to be the single point of contact to meet conflict indigent defense needs.

A proposal was received from Cohen Defense Group (CDG), which provides similar services to Placer County. This proposal was recommended by all participants on the County RFP review panel, which included representation from the Court and County Public Defender. Following the recommendation of the panel, the County Purchasing Agent negotiated with CDG on various terms, and the proposed contract best meets the RFP goals and represents a well-tailored solution to a persistent problem faced by the County, the Court and those who find themselves in need of indigent defense services.

The contract is based on a fixed annual price, determined by estimated annual caseloads and estimated mix of various types of cases. While the proposed contract represents an increase in costs over historical budgets (as shown in the Funding section of this staff report), the following provide some additional context for consideration:

- Caseloads (and the corresponding costs associated with providing representation) have likely been artificially low due to the COVID-19 pandemic and its impact on court schedules
- A clause has been included in this contract to allow for a utilization review after the first year, wherein the cost may be reduced if caseload demands do not justify the proposed costs
- Estimated costs for the County to establish and staff a conflict office are essentially the same as those included in the proposed contract, but would come with additional administrative and logistical burdens to be managed

It is recommended that the Board approve this contract as it represents a thoroughly vetted and negotiated solution to meeting the County's Constitutionally mandated obligation to provide for indigent legal defense services.

Item Initiated by: Barry Anderson, Sr. Management Analyst

Approved by: Alison Lehman, County Executive Officer